



From the Editor's Desk

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From the Editor's Desk

Traditionally, police concentrated on catching the criminal with the help of witnesses. The victim – unless dead - was, at best, merely one of the more important witnesses. Preventing crime, except by immediate physical intervention, was not a police priority, unless it involved habitual criminals or possibility of breakdown of law and order. Justice for the victim was not an actionable priority. But Democratic Policing has changed this perspective and cast additional burdens on the police. The primary goal of Democratic Policing is to “Protect the Freedoms of All while ensuring the Security of All”. The policing objective today is to ensure that even the most vulnerable sections among the population are protected against victimization and exploitation. Naturally therefore protection of the child becomes an extremely important duty of a police service wedded to democracy.

There was a time when the State- and consequently the Police - assumed no responsibility for the protection of the child. The child was the responsibility of the parents, the family and societal institutions – and seldom of the State. A few centuries back, even crimes committed by children had not merited any special treatment. The 7- year and 12-year distinctions with regard to juvenile criminality introduced in the Indian Penal Code in the middle of the nineteenth century were highly progressive, given the prevalent state of juvenile jurisprudence of the times. The last two centuries have witnessed considerable progress in special legal regimen and international action relating to protection of children. Now no serious student or practitioner of democratic policing can afford to overlook the special aspects of policing relating to juvenile justice and protection of the child.

Despite the tremendous progress in jurisprudence and legislation, the gulf between the ideal and the actual has been palpably increasing over the years. Both changes in life styles of individuals and increasing strife among different sections of people in different parts of the world are pushing children into situations of risk. War, civil strife, poverty, consumerism, breakdown of family systems etcetera create an extremely dangerous environment for children. Soldiering by children, child labour, child trafficking and sexual exploitation of children form one end of the chain of abuse while malnutrition, lack of education, stunted mental and physical development, drug abuse, lack of parental care etc extend to the other end. It is against this scenario that policing efficiency in ensuring proper delivery of juvenile justice becomes a matter of critical importance.

Admittedly, in India, we are yet to realize the full extent of the problem. Many of us derive comfort from the reports of the extremely low percentage of total crime in which juveniles figure either as perpetrators or as victims. The recorded levels of incidence are admittedly low. But this is no solace at all. In the contemporary situation of apathy, ignorance and neglect, unless special mechanisms exist to locate victims, no case is likely to be reported or recorded. Therefore paradoxically, in those regions in which police are relatively more active in addressing the problems relating to the young, the recorded incidence of crimes both by and against juveniles, is more than that in areas where response mechanisms are inadequate. Even in those states from where more crimes and instances are recorded, the reporting is presumably only the tip of the ice berg and a much higher level of proactive intervention may be necessary.

Good Policing necessarily means policing which duly prioritizes the good of the children. Police can excel in efficiency

and professionalism only when the safety and care of children are reasonably well assured. If this to be achieved, we have many more miles to go in systems reform, public education and in evolving response mechanisms. Government, non-governmental organizations, practitioners, researchers and activists need to come together to evolve and create conditions for improvement of standards of policing in this regard. This volume of the Journal is the culmination of an effort to bring together a wide range of experts and their ideas with special focus on issues of policing relating to children. It is hoped that this will stimulate committed and purposeful activity to achieve greater efficacy in our efforts at making the world around us safe for children.

Jacob Punnoose IPS (Retd),
Visiting Editor

The Role of Community Policing in Global Child Protection and Safety: Policy Suggestions for Police Practice

Dr. Diana Bruns

Abstract

The living conditions for children and their safety in many parts of the world are deplorable. According to the World Health Organization and the United Nations Office on Drugs and Crime (2014), there is a dire need for the enhancement and improvement of violence prevention programs and services for victims, including stringent legislation and enforcement of law affecting the worldwide prevention of violence. An international model of community policing is vital to protect the lives of millions of children. The primary goals for this international model would include major reductions in crime and disorder; improvements in the quality of life—including prompt response to citizen’s requests; enhanced police/community cooperation, and improved homeland security.

Introduction and Background

International statistics are documenting that the safety and well-being of millions of children are at stake, as the United Nations Children’s Fund (UNICEF, 2014) discovered the primary (leading) cause of death and injuries among children is physical violence. One in three girls around

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the world will experience interpersonal gender-related violence in the course of their lifetimes (United Nations Office of Drugs and Crime, 2010 & World Health Organization, 2005). Human trafficking of children, one of the most precipitous of crimes (U.S. State Department, 2008), is escalating throughout the world. According to a recent report from the United Nations of Drugs and Crime (2014), there is no safe haven in the world from human trafficking. More troubling, the same report further demonstrated no tangible progress or developments in international criminal justice responses to human trafficking. Furthermore the exploitation, violence, maltreatment, neglect and abuse of children can be prevented (World Health Organization, 2010).

As Nelson Mandela, the former President of South Africa formerly and poignantly stated,

Safety and security don't just happen; they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear.

UNICEF (2014), reports 85 million children are subjected to extremely perilous types of labor; over five million are victims of trafficking and/or exploitation; at least one-quarter of a million are affiliated with armed groups in an estimated twenty or more of the world's countries, and at least 230 million children reside in countries with current armed conflicts. In the United States, each year more than 1000 children are victims of homicide; the homicide of children under the age of nine,

justice, higher education, sociology, business and management. Dr. Diana Bruns has nearly 20 years of experience in higher education teaching in the areas of criminal justice, criminology and sociology at seven different institutions of higher education. She has been the chairperson of three different criminal justice programs over the past 15 years and has published in the areas of criminal justice, higher education, sociology, business and management.

is typically committed at the hands of their parents or caregivers (Douglas & Vanderminden, 2014). It is clearly evident that the police must be advocates to individuals, especially children who have no voice (Murray, 2006).

Child maltreatment, abuse and violence—occurs in the United States also indescribably even while under the protection of child protection authorities, as Butte (2014) demonstrates that at least 786 children (mostly under the age of four) died of abuse or neglect in the U.S., in a six-year span, in plain view of child protection authorities. Many of them beaten, starved or left alone to drown even while agencies were aware the children were at risk of harm or danger.

Creating a Need for Effective Police Strategies to Combat Violence Against Children:

Ultimately, there is a critical need for effective policing strategies specifically in these critical times of danger for children living in violence and threat of harm, torture, trafficking and mistreatment around the world. The life blood of policing is information which is provided by a cooperative community; for the police alone cannot effectively prevent crime and disorder without full community participation. It is very clear, as a worldwide community, we need to focus on strategies which have been proven to succeed. The key to community policing is that it must be correctly defined, implemented and supported. Murray (2006) further proclaimed a need for the community to be involved in the prevention of crimes; community members must

This has been a devastating year for millions of children. Children have been killed while studying in the classroom and while sleeping in their beds; they have been orphaned, kidnapped, tortured, recruited, raped and even sold as slaves. Never in recent memory have so many children been subjected to such unspeakable brutality

*—Anthony Lake, UNICEF Executive Director
(December, 2014)*

be supportive and understanding of police work in order for this concept to be actualized.

Nearly 20 years ago, Ferreira (1996) stressed,

To be effective community policing needs a democratic environment to flourish in. This can only happen if the community and the police form a partnership of equality. They must also learn to trust each other with the understanding that whatever one does will also be in the best interest of the other. The wounds caused by questionable police involvement in government suppression of the citizens of former non-democratic societies would be healed the fastest if community policing becomes a reality based on trust and cooperation. Only then will the police be able to truly serve and protect those model citizens who strive to obey the laws their own democracy creates.

Community Policing Defined

It is common knowledge that the majority of police actions have nothing to do with criminal law enforcement, but involve service to the community. Service includes: peacekeeping; educating the public; preventing suicides; looking for lost or run-away children; maintaining public safety; assisting motorists with disabled vehicles; dealing with emergencies and crisis situations; delivering death notifications; resolving conflict and preventing crimes.

The COPS (Community-Oriented Policing Services) Office, a component of the United States Department of Justice, was created in 1994 with a primary mission to advance practice of community policing.

The police alone cannot effectively prevent crime and disorder. Police must secure the willing cooperation of the public in voluntary observance of the law to be able to be secure and maintain the respect of the law. The police are the public and the public are the Police.

—Sir Robert Peel

This mission is carried out by providing grants and training tribal, local and state law enforcement agencies, whereby the funding allows agencies to hire and train officers to acquire technology, and to test and develop new policy strategies. The Office of Community Oriented Policing Services (COPS) explains community policing in the following fashion:

- Community policing focuses on crime and social disorder through the delivery of police services that includes aspects of traditional law enforcement, as well as prevention, problem solving, community engagement and partnerships.
- The Community Policing model balances reactive responses to calls for service with proactive problem solving centered on the causes of crime and disorder.

Community policing is based on the premise that partnerships between police and citizens are essential to increase public safety and reduce crime. A seemingly simple concept, community policing actually requires a complex and challenging mix of changes to a police department's organizational culture and structure. These changes are usually combined with innovative approaches to fighting or preventing crime that may call for extensive community cooperation, planning, and outreach

— U.S. Department of Justice, COPS, 2003

I believe with every fiber in my being that if this bill passes (COPS Improvement Act of 2007), fewer people will be murdered, fewer people will be victims, fewer women will be senselessly beaten, fewer people will continue on the drug path, and fewer children will become criminals.

—Joseph Biden, Vice President (United States)

Community policing is grossly misunderstood by police in the United States, for it does not mean a few officers assigned to a community policing unit, which is a typical distortion of the concept and philosophy of community policing. Widespread misunderstandings and myths of community policing abound, which impede its benefits. Such myths include community Policing is social work, community policing is too expensive; traditional police work has no place within a community policing environment, and a police agency can adopt a full transition to a community policing philosophy within 30 days or less.

Traditional policing in America has been reactive, responding to calls for service. Community policing is proactive; thereby anticipating problems and seeking solutions to them. Features of community policing include regular contact between officers and citizens; department-wide philosophy and departmental-wide acceptance; internal and external influence and respect for others, and lastly a well-defined role—including both proactive and reactive policy. Furthermore, to better understand what community policing is, it sometimes helps to understand what it is not.

Community Policing is not a program, public relations, community harassment, anti-technology, soft on crime, paternalistic, cosmetic, social work or a quick fix (Trojanowicz and Bucqueroux, 1994). In essence, there are three elements of community policing: partnerships, problem solving and organizational change (U.S. Department of Justice, 2012). Furthermore, community policing is not costly— it usually saves money; includes effective control of major crime; and most police work involves emergency social work and peacekeeping, as described in classic essay ‘Florence Nightingale in Pursuit of Willie Sutton’ (U.S. Department of Justice, 2012)

In the United States, there is a strong support for community policing at the local level, as voiced by the Conference of Mayors and the International City Management Association and at the National Level

by President Obama and Vice President Biden. However, no major city has comprehensively implemented such concepts necessary for true community policing. According to the late Lou Mayo, the major re-engineering required is to replace existing dysfunctional traditional policing with community policing. Police need major changes from a centralized bureaucracy organized temporally, to a decentralized, participative as well as, geographically structured organization—a proven complete reversal of structure included in recommendations of several national crime commissions (1960's-1970's) which have been mostly ignored by American policing.

The Principles of Community Policing on a Global Scale

Rob Chapman and Matthew C. Scheider, senior analysts at the Office of Community Oriented Policing Services (COPS), suggest that community policing could play an integral role in homeland security. They contend that by applying the principles of organizational change, problem solving, and external partnerships, community policing can help police to prepare for and prevent terrorist acts, and respond to the fear such threats engender. Jose Docobo (2005) also indicates that community policing and homeland security have a great deal in common. Both neighborhood crime and terrorism threaten the quality of life in a community and exploit the fear they create.

The tenets of community policing are internationally utilized and practiced in many countries including Australia, Europe, Pakistan, Latin America, Bosnia-Herzegovina, Canada and many more (Anwar, 2010; Wisler & Onwudiwe, 2008).

The basic principle of quality policing is improving municipal/ social services to people in communities, which will in turn develop trust between the police and the people they serve—a rudimentary requirement for effective policing. This research includes the police principles written by Sir Robert Peel upon founding the London Metropolitan Police

Department in 1829, and in multiple U.S. National Commissions around 1970 [President's Commission of Law Enforcement and Administration of Justice (1976), National Commission on the Causes and Prevention of Violence (1969), President's Commission on Campus Unrest (1971), American Bar Association Project on Standards for Criminal Justice (1973), National Advisory Committee on Higher Education for Police Officers (1979)] which produced volumes of recommendations, as well as other significant research and writings by leading authorities in policing and other relevant disciplines.

Combatting Domestic Violence and Intimate Partner Violence Effects on Children

When domestic violence (DV) or Intimate Partner Violence (IPV) occurs in a home, children are typically at risk of harm or neglect. Police need to make specialized efforts to speak to these children, monitor them periodically, either through the schools or daycare centers. The South African Police Service provides an excellent example of criteria for child protection against family violence and sexual offenses, which enables proactive policing in the community. Their primary goal in proactive policing ensures public awareness of the existence of the crimes against children and combats the crimes proactively, by organizing disciplinary meetings; articles in the media; presentation of lectures; and through speeches at schools, colleges, churches and youth organizations.

Community Policing and Effectively Assisting Children in Traumatic Situations

Marans (2013) discusses the importance of community policing when dealing with traumatized children, stressing that referred the children to properly trained professionals who will specialize in trauma. Further, Marans (2013) stresses that officers must learn to build rapport with these traumatized children for in future situations, the children may be more willing to freely to speak to an officer when they are frightened.

Community Policing Strategies and Crime Prevention: Research Findings

An extensive history of 150 years of research and findings (Wilson, 1982; Trojanowicz, 1990; Rosenbaum, 1994; U.S. Department of Justice, 2012) clearly indicates successful police strategies and policies, which are consistent within the principles of community policing, can prevent crime and disorder. Such tactics should immediately be adopted to thwart violence and the maltreatment of children, while ultimately improving the quality of life for all citizens around the globe.

Unfortunately, traditional policing has largely ignored these sound principles of community policing. The Center for Problem-Oriented Policing (2014) emphasizes the importance and impact of community policing to educate the public about the abuse, maltreatment and neglect of children. However, according to the Child Welfare Information Gateway (n.d.) problems must be addressed with police while working in tandem with Child Protective Services for the decision making processes. Boudreaux & Lord (2005) emphasizes the need for a multilevel system of protection for children, involving the police, child protective services, mental health, and other related fields and the needs for policy changes and making the issues more known to the community to render support.

Casey, Berkman, Stover, Gill, Durso, and Marans (2007) outline preliminary results of a police-advocate home-visit intervention project for victims of domestic violence. The officers found that making home visits following domestic violence calls were more productive process, than just 'checking up' on the women. The police assisted the battered women and her children to obtain easier access and utilize essential resources to assist in transitioning to a life free of violence. This process was a very productive way to involve the police in the community, while keeping closer watch on the 'at risk' homes.

Creating a Need (Niche) for an International

Model of Community Policing

International curricula must be developed to encompass the concept of the important role of the community in preventing crime/disorder as well as improving the quality of life as a primary resource. An innovative international program must be developed as an ‘outreach’ program to encourage police departments/local governments to decide to utilize/implement these concepts together with a technical assistance program to assist such locales, utilizing capable graduates of this new curricula. Finally, this needed program and protocol must have a major research component, both to assess the implementation, utilization, and benefits/problems of implementing community policing, as well as research to refine and expand the understanding of community policing.

The primary goals for this model include:

- Major reductions in crime and disorder across the globe, with a priority for violent crime reduction, including preventing and combatting violence against children and other victims of human trafficking;
- Improvements in the quality of life—including prompt response to citizen’s requests;
- Enhanced police/community cooperation;
- Enhanced feeling of safety for the people;
- Reduced complaints; more commendations from the community;
- Improved morale and working environment for the police;
- Clear responsibility and accountability at all levels from police officer upwards;
- Reduction in police civil liability;

- Improved homeland security;
- State-of-the-art management of the 911 communications center;
- An enhanced reputation of the departments as ‘model’ community policing department;
- To provide a national model for community policing programs, both academic and operational
- To develop students who can assist police departments evolve from a traditional organization to a community policing model;
- To help current police administrators expand their organizational management style to meet the need of the 21st century policing community;
- To provide intellectual pursuits that will develop new scholarship in the field of community policing;
- To provide insight into the development of current policing and prisoner re-entry justice issues and how they are correlated to other social and behavioral science fields, and
- To apply organizational and management theory to efficiently and effectively allocate scarce resources and operate an effective community policing organization

The end result will be the incorporation of the best research/knowledge of policing and management into the formation of a comprehensive, integrated community-policing department, enhancing quality of life for children, while protecting them from harm, mistreatment and abuse.

References

- Anwar, M. (2010). *Countering terrorism through community policing*. Network for improved policing in South Asia, 2(8). Retrieved November 27, 2014 from <http://nipsa.in/countering-terrorism-through-community-policing>
- Boudreaux, M. C., & Lord, W. D. (2005). Combating Child Homicide. *Journal Of Interpersonal Violence*, 20(4), 380-387. Retrieved from PsycArticles on December 12, 2014.
- Butte, M. (2014, December 18). AP IMPACT: Abused Kids Die as Authorities Fail to Protect. Retrieved from <http://abcnews.go.com/US/wireStory/ap-impact-abused-kids-die-authorities-fail-protect-27682379>
- Child Welfare Information Gateway (n.d.). *Role of Law Enforcement in Combatting Child Maltreatment*. Retrieved December 1, 2014 from <https://www.childwelfare.gov/pubs/usermanuals/law/lawc.cfml>
- Docobo, J. (2005). Community policing as the primary prevention strategy for homeland at the local law enforcement level. *Homeland Security Affairs*, 1(1), 1-12.
- Douglas, E., & Vanderminden, J. (2014). A longitudinal, multilevel analysis of homicide against children aged 0-9 years using state-level characteristics: 1979-2007. *Violence and Victims*, 29(5), 757-770. Retrieved from December 1, 2014 <http://search.proquest.com/docview/1563999230?accountid=458>

- Ferreira, B. (1996), Policing in Central and Eastern Europe: Comparing Firsthand Knowledge with Experience from the West. *The Use and Effectiveness of Community Policing a Democracy*. College of Police and Security Studies, Slovenia. Retrieved December 20, 2014 from <https://www.ncjrs.gov/policing/use139.htm>
- Marans, S. (2013). Phenomena of childhood trauma and expanding approaches to early intervention. *International Journal Of Applied Psychoanalytic Studies*, 10(3), 247-266.
- Murray, J. (2006). Criminal Exploitation of Women and Children and the Important Role of Community Policing. *Police Practice & Research*, 7(2), 125-134.
- South African Police Services (2014). Retrieved December 5, 2014 from <http://www.SAPS.com>
- Trojanowicz, R. & Bucqueroux, B. (1994). Community policing: How to get started. Cincinnati, OH: Anderson.*
- United Nations Children's Fund (2014). Hidden in Plain Sight: A statistical analysis of violence against children. Retrieved December 10, 2014 from www.unicef.org/...index_74865.htm*
- United Nations Children's Fund (2014). The State of the World's Children 2014 in Numbers. Retrieved December 14, 2014 from <http://www.unicef.org/sowc2014/numbers/>*
- United Nations Office of Drugs and Crime (2010). Handbook on Effective Police Responses to Violence Against Women. Criminal Justice Handbook Series. Vienna, Austria.*

- United Nations Office of Drugs and Crime (2014). Global Report on Trafficking of Persons. Vienna, Austria. Retrieved December 21, 2014 at http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf*
- U.S. Department of Justice Bureau of Justice Statistics. (2004). *Census of State and Local Law Enforcement Agencies*. Washington DC.
- U.S. Department of Justice Office of Community Policing Services. (2012). *American Policing in 2022: Essay on the future of a profession*. Washington DC.
- U.S. Department of State (2008) *Trafficking in Persons Report*. Retrieved December 12, 2014 at <http://www.state.gov/documents/organization/105501.pdf>
- Wisler, D. & Onwudiwe, I. (2008). Community policing in comparison. *Police Quarterly*, 11(4), 427-446.
- World Health Organization (2005). *Violence against women in Africa*. Cited in World Health Organization (2005). *WHO multi-country study on women's health and domestic violence against women: summary report of initial results on prevalence, health outcomes and women's responses*. Geneva, Switzerland.
- World Health Organization (2010). *Violence prevention: The evidence*. Series of briefings on violence prevention. Retrieved December 15, 2014 from

[http://www.who.int/violence_injury_prevention/violence/
4th_milestones_meeting/publications/en/](http://www.who.int/violence_injury_prevention/violence/4th_milestones_meeting/publications/en/)

World Health Organization (2014). Global Status Report on Violence Prevention 2014. Retrieved December 12, 2014 at [http://www.who.int/violence_injury_prevention/violence/
status_report/2014/en/](http://www.who.int/violence_injury_prevention/violence/status_report/2014/en/)

Black hands... small feet....

*Monolita Chatterjee
President
Racing Our Vision*

Small feet which are capable of running away, saving themselves. Small mouths which can say 'No' – the all powerful word. Small bodies which can demand ownership. Small minds which can live without fear.

And the black hands. Which are everywhere. Sometimes the father, the brother, the next door uncle, the trusted home servant, the driver, the gardener.

As a parent, the bodily integrity of my child is a difficult lesson to impart. I want to tell my daughter not to be afraid. I want to tell her to boldly go where I haven't been able to. I want her to experience all that is life. But I also want to be able to tell her that her body is her own. She has a right to say 'NO' – anytime. And she has a right to know that she is always ONLY the victim. Never to blame.

As a social worker in the field of Gender Violence, working with victims of abuse, especially children, I face the other side everyday. Children battered to the point of extinction, their self value crushed and annihilated, their childhood snatched away, in packages of years, reducing them to non humans, non people, with years lost even as they grapple with rescue and rehabilitation.

Our NGO, Raising Our Voices Foundation (ROV), works in partnership with the Government of Kerala to holistically mentor the state's wards residing in their Home in Ernakulam – the biggest Girls' Home of the state. Though the children are from all backgrounds – orphans, street children, children from dysfunctional families, the biggest section are still victims of abuse.

They are children with histories of abuse starting with their next of kins – fathers, brothers, uncles. They are children who had been absorbed in prostitution rings. They are victims rescued from established sex trafficking rings.

We find that working with these children involve several issues.

Firstly of course is combating their mental ghosts. Having had to negotiate their space within the small cracks available for their survival during the abuse process, most children develop great levels of self deception skills, which manifest into lying, changing their stories and also constantly trying to manipulate the system and social workers engaging with them. Many host massive levels of anger and behaviour disorder, levels of aggression, and abusive behaviour expressed to the figures of authorities around them, their peers and especially the children younger to them, creating unending cycles of abuse and victimisation.

The process of institutionalisation itself is not easy, many of them having to deal with several academic year losses. Many nurse severe forms of Learning Disabilities (LD), and all children have a common strain of almost irreversible educational backwardness. To give back their childhood, it becomes imperative to reinstate them in schools or academic life, a must for any child and a fundamental right in our country. Yet this process of academic rehabilitation is fraught with challenges, not just because of the factor of weak basics and ability to cope with the mainstream state delivered academic process, but also because of the high rate of school dropout issue we face. The reasons are manifold, from simple unease of engaging in a disciplined curriculum system, to more severe issues of the stigma and harassment our girls face because they come from the 'Home'. Many of them need constant additional support and repeated counselling to continue their engagement with the education process.

This support has to be inserted sensitively. Many need one to one classes to just cope with the basic syllabus of studies that they face in the state curriculum. Having lost years, they combat severe educational backwardness and the simple ability to study systematically. An unempathetic public school system does not ease the burden where the child is often one in a class of fifty, with an overworked, over stretched teacher trying to impart education to a class of uninterested pupils. Supportive maintenance tuitions and an enabling study atmosphere, both missing today from most public systems become the need of the day. Compounded with that is the urgent need to build libraries in any of these Homes, to create veritable compendiums of knowledge which are accessible and easy to reach for children of these backgrounds. We are constantly dealing with demands for books, school guides, question banks, reference books and story books.

Even with the best intentions, about 20% of the children still remain outside the purview of traditional schooling due to various reasons, the easiest being an inability to cope mentally with the pressures of a public school system. Child abuse victims, especially those rescued from trafficking, are often complainants and victims in long standing criminal cases, which create an added security issue for children to travel to schools. Further, there are high risk children, with flight and self harm risks, as well as children combating debilitating psychological and physical health issues.

For them, the school needs to come to them. A complete system of state syllabus trained teachers with special ability to deal with educational backwardness or LD is required to fill this gap, to literally run a parallel school system within the Home. We have achieved this by constituting an NIOS learning centre within the Home premise where regular classes in three batches are conducted for the children who have to stay back at 'Home'.

The medical side is a whole different deal. While the mental ghosts I talked about need to be dealt with first, constant counselling and advanced psychological and psychiatric support is required to support these children's fragile mental state. Children rescued from long term abuse exhibit strong symptoms of paranoia, anger, utter dejection and suicidal ideation, other than cases of severe stress and depression, resulting into chronic physiological health conditions. A tired government system is often unable to provide the level of fine-tuned empathetic individual mental care that these children need.

A multi level mental support system needs to be constructed for adequate support to these fragile beings. Starting at basic counselling and psychosocial support, it needs to elevate into professional psychological interventions, and subsequently for psychiatric and neurological interventions with complete treatment plans. We are now looking at options for a collaborative psychiatric and neurological approach to many of our most fragile wards.

Along with this, many children suffer from classic conditions prevalent in young people with high levels of sexual activity much of which is abusive. High needs of continued sexual stimulation, or frigidity, ideation of the abuser or the rescuer, as well as sexually abusive behaviour towards the weaker wards in the group are common. Institutionalisation in the prescribed sexually segregated manner, while imperative for protection of the girls, also lead to drastic behaviour to court attention from the opposite sex, or manifestations like forced lesbianism.

The physiological support required also is at many levels. While regular health checkups, immunisation, blood grouping and anaemia checks is a must, it needs to be followed up with further evaluations and consult in critical areas like gynaecology, dermatology and neurology. Like all children, the wards need ophthalmological and dental care. But acute among them are many gynaec related complications, especially related to disorders typical of this victim group with early onset of sexual

activity. Dealing with sexually transmitted diseases become a critical need.

The successful rehabilitation process for children has to be trifold:

It needs to first embrace a process of mental and physical healing, nurture and care for these adolescent or prepubescent girls. Secondly it needs to educate and train these children to enable themselves as independent adult individual for re-entry into society. And lastly but by no means the least, it needs to secure justice not just legally but at the social and human level for these victims of the worst crimes of civilisation and enable them to re enter normal life with a sense of confidence and self respect, sans fear.

The legal redress system in all its abilities still remain a far cry from treating these children as human beings with individual rights. The law and the police at its most effective base, still view the victims as components to ensure justice in its narrowest terms, forgetting that they are children requiring empathetic interventions which allow them to continue with their life uninterrupted. Very often, in the name of protection and security, it is the victims who are incarcerated for years while the perpetrators walk free living normal lives. The process of complete rehabilitation and re-entry of these victims to normal lives are difficult while the perpetrators are at large posing threats to their safety and security. We find again and again, children having to be restored back home, where the perpetrator of the crime often resides within the walls or just next door. We find victims asking us about their lost lives, their lost innocence, childhood.

The transfer of children of this category into the adult system by the age of 18, itself is another fraught with dangers for these fragile beings. Though 18 is an age by which we consider children to be adults, most children remain under the protection of their parents till a good age of 21 or more to establish comfortable entry to adult life. These children are even further in need of such recognition and protected treatment.

The law decries them as adults and swiftly shifts them to the adult welfare schemes which remain hugely inadequate to deal with such victims who remain as children even more than other children, due to loss of academic years and stunted mental growth. The scamper we face to place such children to enabled adult environment by the time they are 18, to save them from being transferred to adult welfare schemes is often drastic and panic ridden.

These children need a further support of at least 5 more years beyond their legal adult age within the Child Protection Act, to be enabled as adults. They need speedy and empathetic legal redress systems, with legal counsellors working with them as clients, rather than victims, which protect and safeguard their legal and human rights. Moreover, they need to be empowered to make critical decisions about themselves by themselves, so that they become effective adults. Most of them have many hidden talents, great strengths of character, and immense potential to become transformative figures in their later lives. However, the system does not enable every potential. It enables the exceptional only, who shines despite all odds. It is imperative that the systems for these children enable each and every child to re enter normal life as quickly and as empowered as possible.

The last factor in rehabilitating these children through the public welfare delivery mechanism is the shoddy conditions of the built environment structures which house government social welfare schemes. A healthy surround houses a healthy mind. Today most infrastructure building exercises in the government are through the public works department, an archaic body with opaque systems and speeds of a behemoth. It thus generates institutional structures completely disconnected with the real needs of these child victims, who need a home, a therapeutic environment and a healing atmosphere. The world over, standards of design and building for care homes have changed drastically to become contextual to the needs of the users. But in India, this delivery is still through standard building processes allowing no

flexibility to create environments which are therapeutic for these victims. Even inserting a lift, or changing the colour of the building from its standard institutional colour, become processes of great committees and meetings.

There is an urgent need for the government that to recognise that to deliver critical welfare to these children, the built environment of the 'Homes' need to be specialised to match the needs of the wards and standards be executed based on these needs rather than archaic building specifications standardised for all government buildings. They also need to understand the need to employ planning/ design professionals and architects who are capable of delivering empathetic environments to such infrastructure.

These children are the victims of some of the worst crimes of our society. We as a society put a wall around them and forget about them. Privacy issues and safety concerns give a further brush of anonymity to these children, thus making them 'non peoples' in our civilisation, operating and living in the cracks of our society. It is time that we face up to our responsibilities to our young and work together in bringing these children back to our life, our society and re establish them with respect and dignity.

Child Abuse: Medico-legal Aspects

Umadethan

Abstract

India has 440 million children. This is the most vulnerable group subjected to different types of abuse. There is physical abuse, sexual abuse, emotional abuse, child neglect and exploitation. Various studies show that there is an alarming increase in the crimes against children, especially sexual abuse. Even in our state there is 350 % increase in crimes against children as recorded by the State Crime Record Bureau. All types of child abuse are potentially harmful for the healthy development of a child and affects his/her survival and dignity. Physical abuse is commonly seen in broken families where drunkenness and drug addiction of the parents are the main factors responsible. Poverty, unwanted pregnancies etc. are catalytic factors. Very often the perpetrator is a relative, teacher or caretaker. In 2012 “Protection of children from sexual abuse” has come into force with all types of sexual abuses defined and punishments prescribed. In spite of these stringent laws child sexual abuses are still rampant. The parents are to be made aware of this menace and given instructions to protect their children. Democratic policing, educational institutions and non governmental organisation can effectively participate in the prevention of the violation of child human rights.

Introduction:

There are 440 million children under the age of 18 years in India. Existing socio-economic conditions make these children vulnerable to different types of abuses, exploitation and neglect. Child abuse is defined

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as a state of emotional, physical, economic and sexual maltreatment meted out to a person below the age of 18 years. It is a violation of the basic human rights of a child and is the outcome of interrelated familial, social, psychological and economic factors. The major forms of child abuses are physical, sexual, emotional and neglect. Of these, sexual abuses against children have reached epidemic proportions. In a report published by the Asian Centre for Human Rights, it is mentioned that in India, 48000 rape cases were recorded from the year 2001 to 2011

According to a study by a non governmental organisation ‘CRY’, (Child Rights and You) every year 8945 children go missing and above 500,000 children are forced into sex trade in India. There are two million child sex workers between the ages of five and fifteen. Three and half million commercial sex workers are between the ages of fifteen and eighteen. Children form 40% of the total population of sex workers.

Even in kerala also there is an alarming increase in the number of crimes against children (596 cases in 2010 and 2186 cases in 2014). This is a 350 per cent increase in the number of crimes during a span of five years. There were 709 cases of rape of children in 2014 (vide Table 1 of SCRB)

In order to curb sexual offences against children the ‘Protection of Children From Sexual Offences Act- 2012’ has come into force. Under this law a person under the age of 18 is considered as a child. This law defines all types of sexual crimes against children and prescribes minimum and maximum punishment. In spite of this, the crimes against children are rampant. Apart from the deterrent laws we need combined action by the NGOs, sociologists, psychologists and educationists in creating awareness about this malady and its preventive measures among all sections of the society.

I. Physical abuse: Battered baby (caffey) syndrome

Physical abuse of children is a form of domestic violence seen in our society. Violence against the elderly, wife and children are common in many families. The perpetrator of violence against children is not always the male; females are also involved in the crime. Alcoholism, drug addiction, personality problems, stressful situations, poverty etc. are the basic causes for domestic violence. Many time the baby will be an illegitimate one or born out of an unwanted pregnancy.

As the babies are defenceless, they are battered most. Battering is not the only method of violence. The common feature of non-accidental violence are multiple injuries of varying nature in different stages of healing. Physical assault, deprivation of food, intentional drugging, sexual abuse and lack of medical care are the common methods of child abuse. Head and visceral injuries are inflicted through beating and kicking as a result of sudden loss of temper. When such a battered child is brought for treatment or autopsy, apart from the recent fatal injuries, many old injuries may be detected. Bruises, burns and healing fractures could many be detected. Usually there will be delay in providing medical attention. The history given by the parents will not be consistent with the nature of injuries. Children employed as servants may also be subjected to ill treatment and violence. They are beaten up, branded with hot irons, scalded and deprived of food.

Autopsy of a battered baby should be conducted carefully. History of the circumstances which led to the death of the baby will be often misleading. The whole body should be X-rayed. This will help in identifying healed/healing fractures. Beaded appearance of healed fractures of ribs (**nobbing fractures**) can be easily identified. Scintigraphy will help in detecting deep seated contusions and bone trauma. All the injuries should be examined carefully and patterned ones

should be photographed. Age of all injuries should be assessed. Chemical analysis of viscera will reveal evidence of drugging. Histology of all organs should be conducted to detect chronic debilitating diseases. Microbiological cultures of blood, urine and CSF should be conducted when infectious diseases are suspected.

i. Munchhausen syndrome by proxy

This is a peculiar condition in which parents induce or fabricate illness in children. Children are taken to hospitals after giving them laxatives, antihistamines, insulin, psychotropic drugs and other drugs to induce disease conditions. At times, life threatening conditions are induced. A proper medicolegal investigation can throw light into the actual circumstances.

ii. Shaken baby syndrome

Vigorous shaking of the baby or a young child by the arms, legs or shoulders will result in brain damage leading to mental retardation, speech and hearing disabilities, paralysis, seizures and even death. This condition is known as shaken baby syndrome. A baby's head and neck are vulnerable to trauma as the head is large and neck muscles are weak. Sudden flexion and extension of neck can cause injury to spinal cord (whiplash injuries) easily.

In shaken baby syndrome, retinal haemorrhages, subdural hematoma, damage to spinal cord and broken ribs are seen. CT scan or MRI scan will reveal the lesions. The child will show symptoms of vomiting, seizures, difficulty in breathing and altered consciousness. Sometimes the child will be unconscious and present signs of a closed head injury. Usually the perpetrator of shaken baby abuse is the mother, father or the baby sitter. Many babies survive the shaking, but later they may show a variety of disabilities such as visual and hearing disabilities, cerebral palsy, autism, cognitive impairments, developmental disorders and behavioural abnormalities.

Autopsy will show bleeding under the coverings of brain due to rupture of small bridging veins that connect the dura and arachnoid membranes of brain. Bleeding is seen in the interhemispheric fissure. Sub arachnoid bleeding and swelling of brain (cerebral edema) are accompanying findings. Visible contusions are rare, but histology will show evidence of diffuse axonal injury. Chronic lesions will include atrophy (shrinking) of brain, enlarged ventricles and sometimes chronic sub dural hematoma (blood clot).

II. Sexual abuse:

Sexual abuse is inappropriate sexual behaviour with a child like fondling of the genital, making the child fondle the genitals of the abuser, intercourse, sodomy, exhibitionism and sexual exploitation. Usually these acts are committed by a relative or a person responsible for the care of the child like a baby sitter or servant.

The new legislation “ **Protection of Children From Sexual Offences - 2012**” has come into force. This law was enacted to protect children from offences of sexual assault, sexual harassment, pornography and provide for establishment of Special Courts for trial of such offences and for matters connected therewith or incidental thereto.

i. Penetrative sexual assault:

Penetration of the penis, or a part of the body of the abuser or any part of the body of the child to any extent, into the vagina, mouth, urethra or anus of the child or makes the child to do so with him or any other person; or application of his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person constitute this offence. Minimum punishment is seven years imprisonment and maximum punishment is life imprisonment and fine.

ii. Aggravated penetrative sexual assault:

Penetrative sexual assault will be considered as aggravated when the offence is committed by 1) Police Officer 2) member of armed forces 3) public servant 4) staff in the management of a Jail/ remand home or a hospital or educational institution 5) by a gang, or or a blood relative 6) using deadly weapons 7) causing grievous injury 8) causing physical or mental incapacitation 9) makes the child pregnant 10) infects the child with HIV 11) on a physically incapacitated child 12) doing it repeatedly 13) whoever, being in a position of trust or authority of a child 14) on a pregnant child 15) attempt to murder after sexual assault 16) during communal violence 17) by previous offender 18) strips and parades the child after sexual assault. Minimum punishment is ten years imprisonment and maximum is life imprisonment and fine.

iii. Sexual assault :

Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault. Minimum punishment is three years and maximum is five years imprisonment and with fine.

iv. Aggravated sexual assault

Sexual assault will be considered as aggravated when the offence. aggravated penetrative sexual assault and in the manner referred to therein. The minimum punishment is five years and maximum punishment is seven years imprisonment and fine

v. Sexual harrassment

A person with sexual intent doing any act to harass the child will be punished with imprisonment upto three years and also be liable for

fine. Harassment include uttering any obscene word showing gestures, exhibitionism, stalking, enticing for pornographic purpose etc

vi. Using the child for pornographic purposes

Using a child in any form of media for the purpose of sexual gratification is punishable with imprisonment upto five years and also liable for fine.

III. Procedure for reporting of cases:

Reporting is mandatory. Any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, shall provide such information to - **(a)** the Special Juvenile Police Unit; or **(b)** the local police. Any person, who fails to report the commission of an offence or who fails to record such offence shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

IV. Recording the statement of the child:

The statement of the child shall be recorded at the residence of the child as far as possible by a woman police officer not below the rank of a sub-inspector. The officer should not be in uniform. The officer should ensure that at no point of time the child should come into contact with the accused. No child shall be detained in the police station in night for any reason. The officer should ensure that the identity of the child is protected from public. When the statement of the child is recorded under Section 164 of Cr.P.C by the Magistrate, he shall record the statement as spoken by the child in the presence of the parents or any other person in whom the child has trust or confidence. The advocate of the accused is not permitted during the recording of the statement. The statement can be recorded in the chamber of the Magistrate. A copy of the statement recorded should be given to the child and parents.

V. Investigation of a Case of Alleged Rape

Most often the first information as to the commission of the offence is received from (1) the medical officer who attended the sexually assaulted victim brought to the hospital with general and genital injuries. Consent of the child victim is not needed for intimation. Intimation is mandatory. (2) the complaint lodged by the victim of sexual assault before the station house officer. In all these cases, the most important aspect is the collection of physical evidence from the body of the victim without delay. The evidence is collected from the victim, accused and also from the scene. Therefore after recording the first information statement, the victim should be sent to a lady doctor of the nearest government hospital for physical examination as per the directions contained in Section 164 A of the Criminal Procedure Code. *(As it requires expertise in the examination and collection of evidence, the victim may be sent to a medical expert, preferably a doctor specialised in Obstetrics and Gynaecology - Author)* If such a medical officer is not available the victim can be got examined by any other registered medical practitioner

VI. Medical Examination of a child:

The medical examination of a child in respect of whom any offence has been committed under this Act, shall, notwithstanding that a First Information Report or complaint has not been registered for the offences under this Act, be conducted in accordance with Section 164 A of the Code of Criminal Procedure Code. In case the victim is a girl child, the medical examination shall be conducted by a female doctor. The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence. Where, in case the parent of the child or other person cannot be present, for any reason during the medical examination of the child, the examination shall be conducted in the presence of a woman nominated by the head of the medical institution.

The Registered Medical Practitioner, to whom such child is sent shall, without delay, examine her person and prepare a report of examination giving the following particulars, namely:- i. the name and address of the child and of the person by whom she was brought; ii. the age of the child; iii. the description of material taken from the person of the child for DNA profiling; iv. marks of injury, if any, on the person of the child; v. general mental condition of the child; and vi. other material particulars in reasonable detail. The report shall state precisely the reasons for each conclusion arrived at. The report shall specifically record that consent the person competent to give such consent on her behalf to such examination had been obtained. The exact time of commencement and completion of the examination shall also be noted in the report. The registered medical practitioner shall, without delay forward the report to the investigating officer who shall forward it to the Magistrate concerned (Sec 173 of Cr.P.C).

Written informed consent of the lawful guardian may be obtained prior to physical examination and collection of samples for laboratory analysis. The doctor should obtain a detailed history prior to the examination. Clothes of the victim worn at the time of the assault should be collected, examined and preserved for forensic examination. Under clothings should be packed separately. The examiantion of the woman has two objectives. One is to conduct a physical examination; both general and genital. Second objective is to collect trace evidences from the body of the victim. In cases of rape or attempted rape, medical examination of the victim and the accused soon after the incident will yield a lot of corroborative evidences. Delay in the examination will result in the loss of valuable evidences. At the same time, absence of medical findings does not rule out the offence of rape. For example, mere penetration need not produce any tell tale physical evidence. Sexual intercourse with a child used to sexual act or masturbation need not produce any injuries to the genitalia.

i. General injuries

Marks of violence on the body of a victim indicate that she had offered resistance. But if the act was done under threat or in an intoxicated state, there will not be any general injuries on the body of a victim. Presence of bodily injuries like bite marks, nail marks, etc. on the body of the accused also prove that the victim had offered resistance. Trivial general injuries can be seen on the victim as well as the accused in violent sexual act. Generally speaking, if there are signs of general and genital violence, it can be assumed that the sexual act was done against the will and without the consent of the victim.

ii. Genital injuries

Genital injuries can be serious if the act is done on a virgin or a young girl. Genital injuries will be minimal in a woman used to sexual act.

The most common locations for genital injury in female teenagers and women are the fourchette (tense band of tissue that connects the two labia minora), labia minora (two thin inner folds of skin within the vestibule of the vulva), hymen (thin membrane composed of connective tissue that overlies the vaginal opening), and fossa navicularis (shallow depression located on the lower portion of the vestibule and inferior to the vaginal opening).

Tears, ecchymoses, abrasions, redness and swelling, are the common types of genital injuries. Tears are defined as any breaks in tissue integrity, including fissures, cracks, lacerations, cuts, gashes, or rips. Ecchymoses or bruising are defined as discolorations of skin or mucous membrane due to damage of small blood vessels beneath the skin or mucous membrane surface. Abrasions are defined as skin excoriations caused by the removal of the epidermal layer and with a defined edge. Redness is due to hyperemia due to inflammation. Swelling is due to collection of edema fluid in the tissues. Minor injuries will heal in 7-10 days and later the torn segments will become tags.

In children and sexually inactive young adults, genital injuries especially hymenal will be serious. In sexually active women, genital injuries will be minimal or absent. Examination of the hymen of a female adolescent for evidence of penile, digital or foreign body penetration is often a difficult task for the medical practitioner. Usually, the victim is made to lie on a gynaecologic table in a supine position with her legs placed on elevated foot stirrups. Bilateral labial traction is the standard procedure to visualise vestibule and hymen. The hymens of adolescents are normally estrogenized and become redundant. They are characterised by abundant tissue folded over itself with an irregular configuration.

The diameter of an intact hymenal orifice of an adult is 15-20 mm. It will admit a small finger. The diameter of an adult erect penis is equal to the breadth of two fingers (approximately 25-40 mm). Penile penetration into the vagina will definitely produce tears of the hymen. Location of the tears of hymen are described using a “clock face” analogy. Therefore, the top-center location is referred to as “12 o’clock”, and “3 o’clock” refers to the area 90 degrees to the right of 12 o’clock, etc. Anal injuries are also described in the same manner.

Many experts have observed that the initial rupture of hymen from penile penetration is likely to occur in the posterior, or lower, midline position whereas digital penetration is likely to cause splits laterally. In penile penetration the symphysis pubis prevents any anterior movement and forces the penis posteriorly causing trauma to lower margins of hymen and fourchette. But there is no hard and fast rule. Tears can occur anywhere in the hymenal margin.

Penile penetration in the case of pre-pubertal children and adolescents, posterior tear of the hymen with tearing of the posterior vaginal wall and fourchette extending to rectum can occur. It is offence of rape. For example, mere penetration need not produce any tell tale physical evidence. Sexual intercourse with a child used to sexual act or masturbation need not produce any injuries to the genitalia. When the

tears of the hymen heal, the hymen will never return to its pre-penetration formation. The healed tears will be visible as deficits in the hymenal rim and the opening will not reduce to its pre-penetration diameter. It can be safely stated that the hymenal orifice which will admit just a finger could not have been penetrated by anything larger in size in the past.

The doctor must be very cautious about natural clefts seen in the hymenal rim, usually in the sides(3 and 9 o' clock positions). If the cleft or deficit extends to the vaginal wall it is likely to be due to tearing. In these cases, if the hymen admits two fingers, it is possible that there was penetration with penis or any object of similar dimension. In women (except those having an elastic hymen) who had three or four sexual intercourses, there will be multiple healed tears with very little hymenal tissue at various positions of introitus. Very frequent penetration disrupts the hymen completely. After childbirth, there will be only residual tags of hymenal tissue.

iii. Two finger test!

Hon: Supreme Court has repeatedly held that in the case of rape and other sexual offences conviction can be made on the sole evidence of the prosecutrix; if her evidence inspires confidence (State of Maharashtra Vs CK Jain (1990-1-SCC 550, State of Punjab Vs Ramdev Singh (2004) 1 SCC 421). However there continues to be an over reliance by the courts on medical evidence in cases of sexual assault. In many cases of sexual assault there may be no visible injuries because a victim may be restrained, unconscious, threatened, drugged and in a state of shock to resist the attack. In spite of these doctors continue to overemphasize genital injuries as being the only factor to determine sexual assault.

Doctors perform 'two finger test' to determine whether a victim of sexual assault is habituated to sexual intercourse. This is to find out

whether the vaginal opening is broad and lax by introducing two fingers!. This test is an unscientific method of examination used in the context of sexual assault. This has no bearing on the fact that the victim had consented for sexual intercourse. Being habituated to sexual intercourse does not mean that a woman has consented to sexual activity.

Hon: Supreme Court of India has observed in *State of Punjab Vs Gurmit Singh & Others* (AIR 1996 SC1393, *State of Maharashtra Vs MN Mardikar* (AIR 1991 SC 207) *State of UP Vs Pappu @Yunus* AIR 2005 SC 1248) that even in cases where there is some material to show that the victim was habituated to sexual intercourse, no inference of the victim being a woman of easy virtues or a woman of loose moral character can be drawn. Such a woman has a right to protect her dignity and cannot be subjected to rape only for that reason. She has a right to refuse to submit herself to sexual intercourse to anyone and every one because she is not a vulnerable object or prey for being sexually assaulted by anyone and everyone. Merely because a woman is of easy virtue, her evidence cannot be discarded on that ground alone rather it is to be cautiously appreciated.

Hon Supreme Court of India in *Lillu @ Rajesh Vs State of Haryana* (AIR 2013 Sc 1784) has held that the two finger test and its interpretation violates the right of rape-survivors to privacy, physical and mental integrity and dignity. Thus, this test, even if the report is affirmative, cannot ipso facto be given rise to presumption of consent

VII. Special Courts and special prosecutors:

State Government shall in consultation with the Chief Justice of the High Court, by notification in the official gazette, designate for each district, a Court of Session to be a special court to try the offences under this Act. Special prosecutors shall also be appointed .The Special Court shall try cases in camera and in the presence of the parents of the child or any other person in whom the child has trust or confidence.

VIII. Sexually transmitted diseases

During sexual abuse the child victim may contract sexually transmitted diseases such as syphilis, gonorrhoea, chlamydia, herpes simplex, trichomonas and HIV. The doctor who examines the child should give prophylactic treatment.

IX. Prophylaxis of pregnancy

If the child is in the ovulatory period (usually in the middle of menstrual cycle) there is a chance of the child becoming pregnant. Even though there is provision in the 'Medical Termination of Pregnancy Act' to terminate the pregnancy due to rape, it is better to prevent the pregnancy by giving hormonal drugs.

X. Treatment of a victim of sexual abuse

In penetrative sexual assault, the victim may sustain severe genital injuries. As the child is not able to offer resistance, general injuries will be less severe. Minor injuries can be treated conservatively. Severe injuries can occur and may require surgical repair, especially in children. Rape is a psychological trauma to the victim. Victim may develop acute stress reaction like continued anxiety, feeling of helplessness, sleep disorder, social withdrawal, reluctance to leave house, difficulty for intimate relation, sexual dysfunction, crying spells etc. The condition is called 'rape trauma syndrome (RTS). Most of the victims may adjust quickly and return to normal. But in some long term effects like flashback, aversion to sex, anxiety, phobias, depression, nightmares etc may develop. They may need psychological counselling and psychiatric help immediately after the assault and for a long time thereafter which may last for weeks.

XI. Emotional abuse and neglect

Emotional abuse is verbal, mental and psychological maltreatment. These include bullying, neglect, confinement in a room,

threatening, terrorising etc. These cause severe behavioural, cognitive, emotional or mental trauma. Neglect is the failure to provide for the child's basic needs. Physical neglect includes not providing adequate food, clothing and medical care. Educational neglect is not providing education and schooling. Psychological neglect includes lack of love, affection and emotional support.

XII. Conclusion

Child abuse has serious physical and psychological consequences which affect the health and overall well-being of a child. In India, an independent ministry for women and child development has been created in 2006. The challenge is to reach out to the most vulnerable and socially excluded child of the country and create an environment wherein every child is protected and has access to opportunities like education, healthcare and overall development. In spite of stringent laws, child sexual abuse is rampant. Children and parents should be made aware of the measures to safeguard against the menace of child sexual abuse. This can be achieved with the help of non-governmental organisations and educational programmes. Democratic policing can effectively participate in this programme to eradicate the menace of child abuse.

References

1. Apurba Nandy (2013) Handbook of Forensic Medicine and Toxicology, crime and cruelty at home, Ch 16, 359-364 New Central Book Agency, Kolkata
2. Umadethan B (2007) Principles and practice of Forensic Medicine, Neonaticide and infanticide, Ch. 19, P 294-295 Swamy's Law House, Kochi
3. <http://www.cry.org/rights-to-know/statistics-on-children-in-india>
4. Child abuse, Wikipedia, the free encyclopedia.
5. <http://www.friendsofsbt.org/statistics>, Children in India- The statistics
6. Nageshkumar Rao (2010) Textbook of Forensic Medicine and Toxicology, Ch. 27 p 393, child sexual abuse, II Edn Jaypee Brothers, Bengaluru.

7. The Gazette of India- Extraordinary- Ministry of Law and Justice- 20th June 2012-The protection of Children from sexual offences Act - 2012
8. The Gazette of India -Extraordinary- Ministry of Law and Justice 2nd April 2013- The criminal law amendment Act- 2013
9. Crimes against children under different heads of crimes.- Report of the Kerala State Crime Records Bureau- 2014- supplied by Mr Satheesh Bino IPS AIG, PG, Police Head Quarters
10. State of Maharashtra Vs Madhukar Narayan Mardikar AIR 1991 Sc 207
11. State of Punjab Vs Gurmit Singh & Others AIR 1996 SC 1393
12. State of U P Vs Pappu @ Ynus & Another AIR 2005 SC 124810.
13. Lillu @ Rajesh Vs State of Haryana, Crl appeal No 1226 of 2011, AIR 2013 SC 1784.

Table I						
Kerala State Crime Records Bureau						
Number of cases of crimes against children under different heads- 2014						
Sl.No	Crime Heads	2010	2011	2012	2013	2014
1	Murder	42	47	34	40	39
	a. Infanticide	1	1	0	0	0
	b. Other murder	41	46	34	40	39
2	Rape	208	423	455	637	709
3	Kidnapping	111	129	147	136	16
4.	Foeticide	0	0	1	1	0
5.	Abetment of suicide	3	2	3	9	5
6.	Abandonment	9	4	4	4	6
7	Procuration of minor girls	6	9	10	15	10
8	Buying girls for prostitution	0	0	0	0	0
9	Selling girls for prostitution	0	0	0	0	0
10	Prohibition of child marriage Act	6	3	6	11	16
11	Other crimes against children	211	835	664	1024	1385
	Total Crimes	596	1452	1324	1827	2186

Child Abuse

Bodhini

In India

- 8945 children go missing every year.
- 500000 children, boys and girls are estimated to be forced into the sex trade.
- Children form 40% of the total population of commercial sex workers.
- 2 million sex workers are between 5 and 15 years.
- 71% of them are illiterate

Child abuse is of different categories. Sexual abuse of children is one of them .

Child sexual abuse or child molestation is a form of child abuse in which an adult or older adolescent uses a child for sexual stimulation. Forms of child sexual abuse include asking or pressuring a child to engage in sexual activities, regardless of the outcome, indecent exposure of the genitals, female nipples, etc., to a child with intent to gratify their own sexual desires or to intimidate or groom the child, physical sexual contact with a child, or using a child to produce child pornography.

Child sexual abuse can occur in a variety of settings, including home, school, or in work places where child labor is common. The effects of child sexual abuse can include depression, complex post-traumatic stress disorder, propensity to further victimization in adulthood, and physical injury to the child, among other problems. Sexual abuse by a

Bodhini is a movement against child abuse and violence against women. Started as a initiative of Rotary club of cochin metropolis in 2014 and currently under Bodhini Metropolis Trust it deals with education, assistance, and rehabilitation activities related to child abuse and violence against women.

family member can result in more serious and long-term psychological trauma, especially in the case of parental incest.

Under the law, child sexual abuse is an all encompassing term describing criminal and civil offenses in which an adult engages in sexual activity with a minor or exploits a minor for the purpose of sexual gratification. The American Psychiatric Association states that “children cannot consent to sexual activity with adults”, and condemns any such action by an adult. “An adult who engages in sexual activity with a child is performing a criminal and immoral act which can never be considered normal or socially acceptable behavior.”

Child sexual abuse includes touching and non-touching activity. Some examples are:

- 1) touching a child’s genitals or private parts for sexual pleasure
- 2) making a child touch someone else’s genitals, play sexual games or have sex by putting objects or body parts like fingers, tongue or penis inside the vagina or in the mouth or anus of a child for sexual pleasure

Some examples of non-touching activity are:

- 1) showing pornography to a child
- 2) deliberately exposing an adult’s genitals to a child
- 3) photographing a child in sexual poses
- 4) encouraging a child to watch or hear sexual acts
- 5) inappropriately watching a child undress or use the bathroom

Along with the activities described above, there is also the serious and growing problem of people making and downloading sexual images of children on the Internet. To view child abuse images is to participate

in the abuse of a child. Those who do so may also be abusing children they know. People who look at this material need help to prevent their behaviour from becoming even more serious.

Warning Signs Of Abuse

Children often show us rather than tell us that something is upsetting them. There may be many reasons for changes in their behaviour, but if we notice a combination of worrying signs it may be time to call for help or advice.

What to watch out for in children:

- 1) Acting out in an inappropriate sexual way with toys or objects
- 2) Nightmares, sleeping problems
- 3) Becoming withdrawn or very clingy
- 4) Becoming unusually secretive
- 5) Sudden unexplained personality changes, mood swings and seeming insecure
- 6) Regressing to younger behaviours, e.g. bedwetting
- 7) Unaccountable fear of particular places or people
- 8) Outburst of anger
- 9) Changes in eating habits
- 10) New adult words for body parts and no obvious source
- 11) Talk of a new, older friend and unexplained money or gifts
- 12) Self-harm like cutting, burning or other harmful activities
- 13) Physical signs, such as, unexplained soreness or bruises around genitals or mouth
- 14) Sexually transmitted diseases, pregnancy

15) Running away

16) Not wanting to be alone with a particular child or person

Physical Warning Signs

Physical signs of sexual abuse are rare, however, if you see these signs, take your child to a doctor. Your doctor can help you understand what may be happening and also test for sexually transmitted diseases:

- 1) Pain, discoloration, bleeding or discharges in genitals, anus or mouth
- 2) Persistent or recurring pain during urination and bowel movements
- 3) Wetting and soiling accidents unrelated to toilet training.

Why children are unable to tell – some of the reasons:

Children find it extremely hard to speak out if they are being or have been abused. Studies conducted have revealed some of the reasons why children were unable to tell:

- 1) “it was nobody else’s business”
- 2) “didn’t think it was serious or wrong”
- 3) “didn’t want parents to find out”
- 4) “didn’t want friends to find out”
- 5) “didn’t want the authorities to find out”
- 6) “was frightened”
- 7) “didn’t think would be believed”
- 8) “had been threatened by abuser”

The Grooming Dynamic

Perpetrators of child sexual abuse may gain the trust of potential child victims and their caregivers by methodically “grooming” them. This process begins with identifying potential victims, gaining their trust, and breaking down their defenses. These grooming tactics are often directed at potential youth victims as well as the adult caregivers, parents, other youth-serving professionals, and the community-at-large. After gaining access to children and youth by achieving this trust, the perpetrator initiates some kind of contact that he or she finds sexually gratifying. This sexual contact may range from just watching the victim, to rape and other forms of child sexual abuse. Grooming helps the offender gain access to the victim, and sets up a relationship grounded in secrecy so that the crime is less likely to be discovered.

Perpetrators of child sexual abuse are often individuals known to the family; they may be acquaintances, influential members of the community, trusted friends and even family members. Sometimes the offender is known to the family through association with an organization or activity in which the child or youth participates, such as school, a community club, sports team, recreation center or camp.

One reason that the perpetrator is able to exploit the child is because he or she holds the power in the relationship based on age and experience, size and strength, and adult status. A perpetrator may manipulate and use those power differences to gain the youth’s trust and confidence, and/or to create fear that enables the perpetrator to coerce the child or youth. This is not common in all cases of child sexual abuse in many scenarios, there is NO trust at all, only coercion and fear.

The various Grooming steps include:

1) Identifying and targeting the victim.

Any child or teen may be a potential victim. Some predators may be attracted to children and youth with certain characteristics or

may target youth with certain co-existing factors, such as vulnerable parents, to help facilitate the crime.

2) Gaining trust and access.

The perpetrator may observe the child and assesses his or her vulnerabilities to learn how best to approach and interact with the child. Perpetrators may offer the victims special attention, understanding and a sympathetic ear, and then engage the child in ways that eventually gain their friendship and trust. They may play games with victims or give them rides, provide them with gifts and/or special treats.

3) Playing a role in the child's life.

The perpetrator may manipulate the relationship so that it appears he or she is the only one who fully understands the child or meets the child's needs in a particular way. A perpetrator may also exploit a youth's empathy and convince the young person that she or he is the only one who understands the perpetrator and reinforce that the perpetrator "needs" the child or youth.

4) Creating secrecy around the relationship.

The perpetrator may reinforce the special connection with the victim when they are alone or through private communication with the victim such as letters, emails or text messages, and strengthen it with admonitions against telling anyone, lest others be unhappy about it. The perpetrator may threaten the victim with disclosure, suicide, physical harm to the child or loved ones, or other traumas if he or she tells.

5) Initiating sexual contact.

With the power over the child victim established through emotional connection coercion or one of the other tactics, the perpetrator may eventually initiate physical contact with the victim. It may begin with touching that is not overtly sexual though a predator may find it sexually gratifying and that may appear to be casual arm around the shoulder, pat on the knee, etc. Gradually, the perpetrator may introduce more sexualized

touching. By breaking down inhibitions and desensitizing the child, the perpetrator can begin overtly touching the child.

6) Controlling the relationship.

Perpetrators rely on the secrecy of the relationship to keep it going, and to ensure that the child will not reveal the abuse. Children are often afraid of disclosing the abuse. They may have been told that they will not be believed, or that something about the child “makes” the abuser do this to them. The child may also feel shame, or fear that they will be blamed. Often, the perpetrator threatens the child to ensure that she or he won’t disclose the abuse.

7) Isolating the child.

Offering the child rides and/or taking the child out of his or her surroundings is one way that the perpetrator may separate the child from others and gain access to the child alone, so that others cannot witness the abuse. In other instances, perpetrators have been successful in molesting victims without detection while other adults were in the room.

Online Child Grooming

Child grooming is a process of emotional manipulation by which pedophiles prepare children and youth for sexual exploitation. The grooming process typically involves an adult befriending a young person and then winning his or her trust by showering the youth with flattery, sympathy, gifts of money or modelling jobs, and other personal attention. Finally, the groomer attempts to sexualize the relationship, seeking to control the child and continue the abuse, which may include child pornography or even sex trafficking. Pedophiles go where children go and today that includes the Internet. Child grooming goes online when pedophiles use the Internet for the grooming process. Adults may begin the grooming process by visiting forums where youth interact, such as social networking sites, online games (which may use two-way voice

and video technology) or chat rooms, or contact children through email and text messages. Pedophiles may use the information that children reveal about themselves online and target vulnerable youngsters with low self-esteem, family problems, or lack of money.

Internet Safety

All over the news these days we see incidents of child abuse; online predators, cyber bullies, and Internet stalkers make up a genre of cybercrime second only to identity theft. Internet safety experts warn us almost daily of the rash of sexual exploitation facing our kids today, and child protection agencies can barely keep up with their caseload. The sexual exploitation of children is becoming the new epidemic of child abuse and the Internet is making cybercrime and crimes against children easier to commit. But this isn't a new phenomenon; child abuse of all kinds has always existed, it's just that we're only now becoming capable of addressing sexual abuse openly, allowing victims to heal and putting predators behind bars where they belong.

However, parents, make no mistake:

Internet safety is an absolute must for parents who want to protect their children from sexual predators. While the Internet probably isn't creating more predators, it does give them the opportunity to access children they couldn't reach before and with a sense of anonymity that makes them bold in their approach. Unfortunately, the anonymous nature of the Internet also makes it difficult to catch sexual predators.

This is why any approach to child protection must take the computer into consideration, and all parents should have a reliable parental control software system installed on their computer. There are numerous very effective parental control software programs which give a full picture of what the child is doing online, who they are speaking to, and what's being said. With email recording, chat recording, website blocking and website recording, these programs allow parents to choose exactly how much control they need to have over their child's Internet access. And,

because most of these programs can be accessed from remote locations, is particularly suited for working parents.

The sexual exploitation of children may not be new, but it is a danger that can now reach into households and schools via the Internet, and all parents and educators must be prepared to deal with this new take of an old problem.

If a child talks about abuse:

What protective adults need to know:

Three quarters of children who are sexually abused do not tell anyone about it and many keep their secret all their lives. Sexual abusers are more likely to be people we know, and could well be people we care about; after all more than 8 out of 10 children who are sexually abused know their abuser. They are family members or friends, neighbours or babysitters and/or many hold responsible positions in society. The closer the relationship between the abuser and the victim, the less likely they are to talk about it.

Children often show us rather than tell us that something is upsetting them so being aware of the signs is vital. However, children may give vague hints that something is happening. Their information may not be clear and they may not have the words to explain what is happening to them. The way adults respond to this is vital to ensuring the child's safety.

Respond with care and urgency

If you think a child is trying to tell you about a sexually abusive situation, respond promptly and with care. The police and children's social services have joint working arrangements for responding to suspected child sexual abuse. They are experienced in this type of work and will deal sensitively with the child and family.

Believe the child

If a child trusts you enough to tell you about abuse, you must remember that they rarely lie about such things. Although it may be hard to believe that someone we trust or care about is capable of sexually abusing a child, it's highly unlikely that a child would deliberately make false accusations about adult-like sexual behaviours. The pressures on the child to keep silent are enormous. It takes tremendous courage to talk about abuse. A child's claim that sexual abuse did not happen (when it actually did), or taking back a disclosure of abuse are common. Sometimes the child's account of what happened changes or evolves over time. This is a common pattern for disclosure and should not invalidate their story.

Be supportive

It is important that they feel supported. Don't dismiss their claims or put them off talking about it.

Stay calm

If they are talking to you about it, don't get angry. Stay calm and steady. If you get angry the child may think you are going to punish them. This will play into the hands of the abuser who warned the child not to tell.

Be caring

Make sure the child knows you love them and that they have done nothing wrong, and keep telling them that. The child will need to see that adults believe them and they are doing all they can to protect them. Make sure the child knows they were right to talk about it and that you are glad they came to you.

Face the problem

When the abuse is known, adults must face the problem honestly, protect the child at all costs and place responsibility appropriately with the abuser.

Get help

Get help from professionals who can help guide you towards safety and healing. Information on sources of help can be found on our get help or further support and useful links pages.

Do not despair

Children can and do recover from child sexual abuse. It is incredibly difficult to hear that someone you love has been hurt in such a way but help to recover is available.

What the child may be feeling:

Fear

- 1) Afraid that the person who abused them will reject or harm them or those they love.
- 2) Scared that no one will believe them.
- 3) Anxious about what will happen next.
- 4) Confused and conflicted
- 5) Unsure about whom they can trust.
- 6) Feels protective and/or loving toward the person who abused them.
- 7) Regrets having told (may even take back the disclosure).

Guilt and shame

- 1) Believes they are responsible for the abuse.
- 2) Feels guilt about upsetting the family by telling.
- 3) Feels ashamed if they experienced positive physical sensations.

Hope and relief

- 1) Is relieved that the burden of secrecy has been lifted.
- 2) Feels hopeful that the abuse will now stop.

Sexual abuse or incest within the family

When a child is abused by another family member, each family member is affected. Typically, the help of outside specialists is needed to address the emotional toll on the family and to assist the healing process of each individual.

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Contradictory feelings

When sexual abuse takes place within families, the pain we experience can include conflicting and confusing emotions. We may feel extreme anguish over what was done to the child, while still feeling love and concern for the family member who committed the abuse.

What protective parents and caregivers may be feeling:

Anger

- 1) Rage toward the person who harmed/abused the child, betraying our trust, deceiving and manipulating us.
- 2) Anger at the child for not telling sooner.

Guilt

- 1) Self-blame for not having seen what was happening in time to protect the child even when the person responsible for the abuse did all that they could to keep it hidden.
- 2) Guilt over loving or caring about the person who abused the child.

Fear

- 1) Afraid about how the abuse will impact the child.
- 2) Fearful about the family's future and the consequences for the person who abused the child.

Loneliness and loss

Grieving for the loss of the life we had, or thought we had, before we knew about the abuse.

Extreme sense of isolation.

Finding support for ourselves as protective parents and caregivers, we also need support. Connecting with those with whom we can share our feelings will help us cope with the trauma and the challenges we face.

Intervening with the abuser:

The person who has sexually abused a child needs to be held accountable and get specialized professional help. The local police or children's services are often best placed to take the next steps. Should you choose not to contact them, and if it is safe, consider speaking directly to the person who has offended.

Some points to keep in mind when speaking with someone who has or may have abused:

- 1) Explore the situation in a non-accusatory, non-confrontational way. This may help to reduce the person's defensiveness.
- 2) Be specific about the behaviours that concern you and state your reactions to them.
- 3) Ask simple and direct questions.
- 4) Let the person know that there is help available; individuals can and have gone on to live abuse-free lives by first taking

responsibility for the harm they've done, facing the consequences of their actions, and committing themselves to change and to specialized treatment.

- 5) If you feel it, let the person know that you care about them. Loving support can be an Important factor in getting someone to take responsibility, face consequences and get treatment.
- 6) Conversations generally need to happen more than once. Find a friend for yourself whom you can turn to for support.

STOCKHOLM SYNDROME

Nowadays, victims are manipulated into thinking that their abusers are the only people with their best interests at heart. In order to survive, the victims lead themselves to believe that their abusers are the only ones who matter to them to the extent that they will support them in any way. This is achieved through threats and manipulations and fear and being kind. It is known as capture bonding or Stockholm Syndrome.

Stockholm syndrome is one of the most fragile mental states that a person can be in where even general behavior may defy logic. It is important to understand that the victims may not be capable of coming out for it by themselves and require a good environment and constant support to slowly get free from it's grasp.

What should be the attitude and approach from friends, family and other support groups to effectively help a victim suffering from Stockholm syndrome.

I) Remember that Stockholm syndrome is a solution created by mind to escape a hostile environment and as a defense mechanism against further mental trauma. The victim generally relates to the abusive situation as 'safe' and everything else as 'hostile' It is very important to know that like many other states in this case

too the victim may have little or no control on how their mind responds to a situation. Considering it as a viral infection would be more appropriate.

a) Abstain from creating hostile situations as the first instinct of any person in conflict is to look for a safe place. While a normal person may respond to this by trying to reach out to friends or family for support or by turning to self, a person Suffering from Stockholm syndrome will struggle to keep from drifting back to the abusive relationship. This can set recovery back by days or even months.

b) Avoid confrontation about the abusive situation. At times it can get really frustrating when the victim continues to support the abuser when others are trying to detach them from him/her. But, what ever may be the provocations or topics at discussion never bring up any reference of the abuser, the relationship or bring up errors from the victims side.

c) If the victim was involved in a sexually active relationship with the abuser or was sexually abused great care should be taken to avoid any and all forms of sexual advances. This could be from spouse, friends or even being bothered sexually by strangers. Some victims are known to go into violent or agitated response when sexual advances are made; forcing a move or repeatedly making advances can cause the victim to respond as mentioned in 1.1 which is not desirable.

d) Make the victim feel safe around people he/she is with. While most patients act bold most of them need a silent support. One should not actively intervene or disrupt any activity but a smile or a nod can make a great difference. Keep the points in section 1 and do not quit or respond in a hostile manner from the patient rejecting help but stand by and help out.

II) Relapsing is a part of the recovery. The victims often tend to relapse at least mentally from time to time and this may set of an alarm. One needs to understand that this is perfectly normal and is very much part of the recovery process.

a) The victim may from time to time glorify or support the abuser or their actions verbally or by action. It is crucial that at this stage all forms of against-the-current responses is avoided. Attacking the victims opinion can trigger a defensive behavior and can cause deeper relapse that may not be healthy.

b) Ask questions about the relationship and what the victim went through instead. This serves multiple purposes including allowing the victim to feel safe and not threatened while allowing her to re-evaluate the memories and situations. Given enough time and with the right questions one can help him/her see the situation from the right perspective. BUT under no situation should they be challenged or your opinion pushed forth over theirs. Remember that it was not you who was in the situation and you have to help and let them sort through the tangled mental stages.

For example :

a) How did you feel when that happened?

b) Why did he/she do that?

c) What made you happy?

d) I understand but why did he/she hurt you?

e) Its ok, we will see if we can sort all this out. You will be fine right?

Great care should be how ever taken not to push ideas using questions, let it be a normal conversation where you are

trying to learn about how they feel and help them think from a different perspective.

Never lie to the victim about what you are to them. If you are a therapist, friend or family act so in full faith. Do not fake your behavior with them just to help the situation or imitate another role unless you have told the person you are doing so. It can make it worse.

c) Help the person avoid extreme emotional or physical stress. Don't mind cutting down on social, business or other forms of activities which may require them to be in physically or emotionally stressful situations. Keep activities as short as possible.

III) Understand that the recovery is going to totally depend on how the victims feel about themselves, and their future. It seldom have much to do with how they feel about the abuser as once the syndrome breaks (in time) they will see them for what they really are, more clearly.

a) Let the victim know how much they mean to you and how much you want them to be happy. It could be the small things, a message left for them, coffee on the bed, a pat on the back, a smile when you know they are having a tough time etc. Even sincere words like 'I am proud of you' and 'I love you' could mean a lot in this situations. Again great care should be taken to make sure that what you say to them is sincere.

b) Give them opportunities to appreciate things that they love doing. Share a bottle of wine together, a drive alone, coffee or tea, a walk, gossip, hang out with close friends etc. Do not give reasons, push or explain too much just try to share.

c) Have immense patience because at the end of the day the day the recovery is 80% time and 20% the environment. Be patient and genuinely enjoy helping them out. Rest will fall into place.

Police Uncle- the child's friend or nightmare?

Raisa Philip
Bachpan Bachao Andolan

The police force in India represents the face of governance and law enforcement to the society. They form the 'step 1' of the rule of law and legal deterrent for protection against offences, including those against children. However, breaking the barrier between the society and the colonial conceptualisation of the police as a force to reckon with; as first among equals, in the fear of whom fellow-citizens unquestioningly follow laws is a challenge acknowledged by the policy makers of the country. Most Indian children have the experience of their parents disciplining them with the threat of a police force that would come and put them in jail if they refused to comply by rules at home. The parenting strategy is more reflective of what the police represents to the adult, not a protector of their children, but someone to ensure that rules set by a greater power (with or without consent of the subjects on which it applies) is adhered to.

In this context, it is important to explore the role of the police in protecting the children in India. This article tries to identify techniques that need to be adopted to ensure that the police embrace their duties as upholders of child rights, and, children and their guardians view the police

"I told the mother (who was using heated iron rod to discipline her child) that we would call the police if the incident recurred, but madam, who would call the police? You know how they behave even when we go to them with just a pick-pocketing complaint..... I have had incidents of parents coming to school drunk and shouting at me, but I have still not called the police. We do not want to mix with the like of them....."

-Principal of a South Delhi Municipal Corporation School
(During an interview by BBA)

as protectors of child rights. The history, conceptual understanding and the adoption of child rights by the Indian state is discussed, followed by India's policies, laws and experience with law enforcement with respect to child rights. In this context the article will go on to define the role of the police, explore democratic models of policing for child rights, importance of inculcating child rights education in schools and changes in policy to ensure that the police force becomes and is accepted as the guardians of child rights in the Indian society.

Child Rights:

The concept of child rights is a modern movement which started across the world in the early part of the last century. Social historians have argued that the conceptualisation of childhood is a modern phenomenon beginning in the early 15th century¹. The movement for child rights began in early last century. In 1959 the United Nations General Assembly adopted the Declaration of the Rights of the Child. In 1989 the United Nations acknowledged the demand for a separate set of rights for children through the United Nations Convention on the Rights of the Child (UNCRC) in 1989 which came to force on 2nd September, 1990. Currently 194 members of the United Nations are part to the Convention.

A Committee for the Rights of the Child was formed with 18 independent experts from all around the world to monitor the enforcement of child rights as enumerated in the UNCRC.³ The Convention identified four main principles of child rights, i.e., ***survival and development, participation, best interest of the child and non-discrimination.***

¹ Aries, Philippe, *Centuries of Childhood: A Social History of Family Life*, 1960

² United Nations Treaty Collection, *United Nations Convention on the Rights of the Child*, Status as on 10.12.2014.

Acknowledging the rights of the child through the UNCRC, the world has made tremendous progress on the various child related issues. It was successful in bringing under 5 mortality down from 13.3 million in 1985 to 6.3 million in 2013; the ratio of net enrollment (2009-2013) for primary education today is 92% for males and 90% for females; child marriage ratio of girls below 15 years (2005-2013) , in the least developed countries have come down to 15%.⁴ From the year 2000, had decreased by 78 millions the number of child labourers to 168 million in 2014. It has also seen world policy initiatives, in 1989, the ILO adopted convention 182 on the Worst Forms of Child Labour⁵. In 2014 the Nobel Committee decided to acknowledge the work of two child rights activists, Mr. Kailash Satyarthi and Malala Yousafzai for their work, once again increasing the prominence of child rights in the world development agenda.

However the world still grapples with a series of problems with relation to children. While the world has made progress with respect to enrollment of children, attendance of children in schools continues to be a challenge. While the ratio of child marriage (2005-2013) below 15 years in least developed countries is only 15%, the same numbers for 18 years is as high as 45%. The disparity between children in various geographical, economic, social and political conditions has increased in the rapidly changing world. While 78% of the world's richest children have their birth registered, only 49% of the poorest enjoy this privilege; regardless of wealth girls continue to be held back from going to school⁶; of the 2.5 billion people who live without improved sanitation facilities in

³ Office of the High Commissioner of Human Rights, United Nations Human Rights.

⁴ State of the World's Children 2015: Executive Summary, Unicef

⁵ International Labour Organisation, Convention 182.

⁶ 90 girls enrolled for every 100 boys in West and Central Africa

⁷ Child Labour (Prohibition and Regulation) Act, 1986

⁸ The Prohibition of Child Marriage Act, 2006

⁹ Protection of Children from Sexual Offences Act, 2012

the world, 1.8 billion of them live in rural areas.

The situation calls for increased attention of the world's policy makers to the issue of child rights with innovative and context approaches at the enforcement level in the different regions, countries and specific areas within each country.

Child rights in India:

India became signatory to the UNCRC in 1992. Before that India had developed a National Policy for Children in 1974, identifying children as 'national assets'. The Child Marriage Restraint Act, 1929, the Immoral Trafficking Prevention Act, 1956, Child Labour (Prohibition and Regulation) Act 1986 was adopted to protect children from various atrocities. In the twenty years that India has been signatory to the UNCRC the Indian State has progressively legislated in an attempt to guarantee these Rights to its "child". India has legislated against child labour⁷, child marriage⁸, child sexual abuse⁹, trafficking of children for various forms of exploitation¹⁰, sex-selective abortion¹¹; and for children in need of care and protection and children in conflict with the law¹², constitution of an independent commission at the States and Center for the protection of the rights of the child¹³ and every child's right to free education¹⁴ to name a few. The Integrated Child Development Scheme (ICDS) in India, is the single largest umbrella project with Government spending for children. India has also seen civil society action and investment for the cause of children.

Despite such positive action for protection of children, the challenges in India for upholding child rights continue to be of mammoth

10 Section 370 and 370A, Indian Penal Code

11 Pre- Conception and Pre- Natal Diagnostic Techniques Act, 1994

12 Juvenile Justice (Care and Protection) Act, 2000

13 Commission for the Protection of Child Rights Act, 2005

dimensions. India is still home to over 60 million child labourers¹⁵; according to the National Crime Records Bureau Report 2012, there has been a 15.3% increase in crimes committed against children, with the offence of rape showing an increase of 19.5%; one in every two women in India were child brides¹⁶; every 8 minutes 1 child goes missing in the country¹⁷. The responsibility for the lacunae between progressive policies and legislations, and victims, who do not have access to their rights, lies with law enforcement agencies. The various legislations have identified respective implementation as well monitoring agencies.

The agency responsible for protection and enforcing a strong deterrent in most of the legally enforceable child rights is the police. This article tries to identify methods to decrease these glaring gaps.

The Police:

Researcher (R): In your experience in working with child victims of exploitation, what is your biggest challenge?

Child Rights Activist (CRA): The greatest challenge would be the lack of will in the law enforcement agencies (LFA). They do not feel that child rights is a pressing issue and hence to gain the corporation is a huge challenge.

R: In your opinion how can we decrease the gap between the victim and the LFAs, mainly the police?

CRA: We must have awareness sessions with the LFAs. Just like we had moral science classes in schools, they should be made

¹⁴ Right of Children to (Free and Compulsory) Education Act, 2009.

¹⁵ Capital Corruption: Child Labour in India, Bachpan Bahchao Andolan, 2012

¹⁶ NFHS 3 (2005-2006);

¹⁷ Missing Children in India, Bachpan Bachao Andolan, 2012

¹⁸ Crime in India, 2013.

State Commission for Protection of Child Rights etc should all be aware of their powers and their role in protecting child rights so that they can together ensure the enforcement of law.

Also some models like Janamaithri police in Kerala where the police interacts with the citizens is

R: Have you ever had a case where the child victim has directly called the police?

CRA: Never. The children call people they are sure they would get help from, like their parents. The police continue to seem unapproachable in society, so children never approach them.

The above is a snippet from an interview with a child rights activist who works with the law enforcement agency to ensure protection to victims of violation of child rights.

According to the National Crime Records Bureau¹⁸:

Sl no:	Crime Head	Prosecution Filed	Investigation Pending at the end of the year	Comments
1.	Foeticide	221	90	
2.	Rape	12363	4764	The final report has been submitted only for 187 cases including those pending from last year.
3.	Prohibition of Child Marriage Act, 2006	314	120	Close to half of the girls in India are victims of child marriage yet prosecutions filed are as low as 314, of which 38% is yet to be investigated.
4.	Kidnapping and Abduction	28167	14958	Almost 50% of the cases from this year are pending. And the pending cases this year has increased by almost 60% from last year.
5.	Selling and Buying girls for Prostitution	106	247	This head had a huge backlog of 264 cases from last year. In India everyday 40 children are pushed into prostitution.
6.	Other Crimes	13037	3313	

Existing Protection Mechanisms within the Police Institution:

Anti- Human Trafficking Unit (AHTU):

Existing Protection Mechanisms within the Police Institution:

Anti- Human Trafficking Unit (AHTU):

This unit was established under the Ministry of Home Affairs to deal with all cases of inter-state as well as intra-state trafficking. The AHTU has a commitment to ensure the protection laid out as per the United Nations Convention against Transnational Organised Crime, adopted by India in 2011 and the laws against trafficking as per the Criminal Law Amendment Act, 2013. The unit ensures coordination among all states through a Nodal Anti Trafficking Cell in trafficking cases. A total of 225 AHTUs have been established and made operational throughout the country.

While an important mandate of the AHTU is the protection of women and children, the access of victims to this specialised cell is limited. Most victims do not know of their existence. The need to establish connect with children in areas where they are vulnerable to trafficking, through daily activities so that children know and can access their protection is a barrier that the unit needs to overcome.

Special Juvenile Police Unit (SPJU):

The Juvenile Justice (Care and Protection) Act, 2000 has commissioned for SPJUs in all districts and cities with two social workers and a Juvenile Welfare Officer (JWO) in all police stations to look into cases of children in conflict with law and children in need of care and protection.

While a specialised police force is most ideal, such units have not been established in all districts of India, the officers are often unaware about their responsibilities and training to sensitise them about child rights and dealing with children are not delivered or have not been able to effectively sensitise them to look beyond traditional and cultural understandings of children.

These and various other initiatives have been developed and have made impressionable changes. Yet various barriers continue to hamper reporting, prosecution and conviction in cases of violations of child rights. The lack of child participation in these processes and their inability to recognise a violation of their rights, or report a violation of their rights or identify and access the protection mechanism established to uphold their rights can be seen as one of the main challenges.

Janamaithri Police:

This is a democratic model of policing implemented in Kerala where in each police station a Janamaithri Suraksha Samiti is formed and looks to ensure representation from all sections of the community. The model looks to increase interaction between the police force and the community thereby solving issues of access.

While the model is very desirable and decreases access issues, the representatives are adults and addresses only issues of children from the adult's perspective. Issues that children face do not have representation and the children continue to be reliant on other perceptive adults who understand the rights and needs of children.

These and various other initiatives have been developed and have made impressionable changes. Yet various barriers continue to hamper reporting, prosecution and conviction in cases of violations of child rights. The lack of child participation in these processes and their inability to recognise a violation of their rights, or report a violation of their rights or identify and access the protection mechanism established to uphold their rights can be seen as one of the main challenges.

Way Forward for Effective Policing on Child Rights Issues:

While policy framework and implementation mechanism exists, translation of these systems to a strong protective network for children lies in tackling the gap between the holders of the rights, i.e., the children and the ‘face’ of the law enforcement agencies, i.e., the police. BBA would like to propose an operational model that looks to achieve the same by,

- a) Decrease issues of access for children to the police;
- b) Increase sensitivity of police to issues of children and child rights;
- c) Increase and normalise interaction between police, children and their guardians.

Child Rights Education:

From over three decades of experience with working for protection of children, for universal quality education and to uphold their rights, BBA advocates for development of a curriculum on child rights which can be taught through formal education system. Based on UNCRC’s principle of ensuring participation of children for upholding their rights, the proposed system would provide age appropriate knowledge and skills to children to ensure enforcement of their rights. Children are often viewed as citizens of the future and not persons of the present. This system would be an acknowledgement of their rights, the need to equip them to enforce their rights and of their adult protectors to respect them as individuals with rights.

The proposed system would work on three different levels; *firstly*, it would provide school-going children between the ages of 6- 14 years, age appropriate knowledge on their rights. *Secondly*, it would attempt to create child friendly environment in schools and *thirdly*, ***it would attempt to decrease the gap between protection agencies including the police and children and also their guardians.***

Child Rights Education with the Police:

Much like the Janamaithri police's interaction with the Suraksha Samatis at the community level, Child Rights Education would involve the visit of the Juvenile Welfare Officers from the local police stations to the local schools to interact with children. It would include an orientation from the local police addressing the children on protection in spaces outside schools and their homes through their legally enforceable rights. On the other hand the local police officers would have a yearly training from the teacher in charge of the child rights education at the schools on protection of children and on how to deal with children. The importance of bringing together two social institutions, one which deals with children and the other which deals with their protection and facilitating coordination in their work cannot be over-emphasized.

The new system would look to instill within a guardian of the child or the child themselves to increase access to law enforcement agencies. It would also help both children and their guardians to identify the police officer they can approach and be familiarised with the process they must adopt at a police station. Increased interaction and training from a teacher who deals with children on a day to day basis would also help the police understand children's issues and challenges to upholding their rights from the child's perspective. This would help all three groups of stakeholders, i.e., children, guardians and police understand child rights, including systems established for their protection.

All children in India, between 6-14 years of age have the right to education, if the children are empowered to demand their rights, and they and the police are initiated into working with each through the schooling system, the initiative can address the lack of knowledge and access barriers that exist between the victim and the law enforcement agency. The police officer will no longer be a person who the Indian child fears and views as the nightmare that will be unleashed on them

for of their lack of discipline, but as the friendly police uncle, their protector.

The trafficking scene in India as a whole is quite different in a state like Kerala. In Kerala the most important facet of trafficking is that most of our people tend to believe that trafficking is non-existent in the state. The misnomer that Kerala is too “literate” and “sophisticated” for such a crime rules the roost even today, making the task of anti-human trafficking initiatives more cumbersome and challenging. However, of late, some serious issues which developed in Kerala with regard to child care institutions and the disorganised, irregular and even illegal ways in which they were garnering strength for their institutions from other states has created an awakening and awareness regarding the modes of trafficking allegedly adhered to by vested interests in fostering their own business interests at the cost of state and juvenile welfare. Hence it would be prudent to examine the Kerala situation on trafficking in the light of the existing laws on trafficking and the larger Indian context in the background.

The latest anti-trafficking law as enunciated in the criminal law amendment, 2013, is the new section 370 IPC and an analysis of the same on the basis of the definition of trafficking would be as follows.

“Whoever for the purpose of exploitation, (basic requirement for the section). Recruits, transports, harbours, transfers or receives person or persons (necessary condition) by Using threats, or by using force or any other form of coercion or Abduction (first mode). By practicing fraud or deception, abuse of power or inducement (second mode) is considered to have committed the offence of trafficking”.

Considering the above definition of trafficking and applying it to the Indian context we can easily bring out two different kinds of trafficking crimes, which for the sake of convenience can be called obvious and deceptive trafficking. The basic requirement and necessary condition being existent in both models, obvious trafficking would be characterised by the first mode, i.e. by threats, force coercion or abduction, and deceptive

trafficking would be characterised by the second mode, ie fraud, deception, abuse of power or inducement.

Trafficking in the world as a whole and within India in particular, is from areas where quality of life is relatively low to areas where quality of life is relatively high. In other words, the human development index of an area directly determines whether the area can be classified as a “source area” for trafficking in humans or as a “destination area” for trafficking. Higher HDI areas invariably qualify as “destination areas”, while lower HDI areas qualify as “source areas”. This indicates that trafficking in human beings is a direct result of the human quest for achieving better standards of life.

This hypothesis holds good to the different Indian states also where lower HDI states function as source states for trafficking and provide adequate environment for transportation and transfer of people to higher HDI states seeking high HDI life. Thus higher HDI states become destination states from the point of view of trafficking. Thus Kerala being the state with the highest HDI (0.79) obviously becomes the most important and preferred destination for trafficking. Thus, the lowest HDI States like Jharkhand, Chattisgarh, Bihar, UP and Gujarat invariably become the most potent sources for trafficking of children and adults alike to Kerala.

Now, analysing obvious and deceptive trafficking and their features would be a very important exercise to comprehend the Indian trafficking in its right perspective. Obvious trafficking is characterised by the basic requirement and necessary condition as enunciated in the section along with the first mode calling for forcible, coercive and visibly exploitative transfer of persons from the source to the destination. Obvious trafficking is normally visible in lower HDI areas and the very visible force and violence exerted on the victims make it quite discernible as trafficking. In other words, it would be very easy for even a layman to make out trafficking by virtue of the sheer volume of victimisation of the victims by the traffickers. The physical evidence of assault, violence, sexual harassment and exploitation would be all too glaring and no person

would need to be convinced regarding the crime of trafficking. The media, courts, public and law enforcement officials alike would voice the same opinion on the case and all right thinking people would rally behind the victims, once the issue of trafficking is out in the open. The debates would generally then only be centred around the modes of rehabilitation and compensation and would never be on whether the crime of trafficking was existing or not. Nevertheless, the trafficking lobby would spare no effort to further the cause of trafficking, and the courts, public, law enforcement officials, media and social workers on the other hand would put up a collective effort to thwart the initiative by the traffickers. Even this collective effort many a time fails and thus results in the traffickers running amok in the society more victims being exploited and trafficked.

Now, considering deceptive trafficking, it is characterised by the basic requirement and necessary condition as enunciated in the section 370 IPC along with the second mode calling for fraud, deception, abuse of power and inducement. The kind of trafficking prevalent in high HDI areas is mostly of this nature for the simple reason that with higher HDI people and media become more and more aware and blatant human rights violations are by and large unacceptable. But, this does not mean that exploitation ceases to exist. It takes subtler forms and is not as explicit as with lower HDI areas. It takes the form of deceptive trafficking through fraud, deception, abuse of power, inducement, treachery, false promises disguised as altruism, aggrandisement at the cost of the victims' welfare, exploitation with little or no awareness to the victims regarding their rights and thereby ensuring that the victims do not complain against the exploiters. The victims many a time, live in a false sense of security and quite often nurtures a sense of gratitude towards the traffickers, thereby rendering the task of rescue, rehabilitation and restoration all the more onerous. Therefore, detection of deceptive trafficking and bringing such offenders to book is much more stupendous a task compared to cases of obvious trafficking.

Coming to the issues of trafficking in Kerala and other high HDI states, we find that the source states are invariably the lower HDI

States like Jharkhand, Orissa, Bihar, UP and the like are mostly for labour and for showing the requisite number of inmates for child care institutions. The labour industry relies mostly on personnel and juveniles from other states, and though many of them do come in search of better livelihood to Kerala, in search of greener pastures, the fact remains that a good number of them are lured by middlemen who are traffickers who have little interest in their welfare. The advantage of bringing such people as labourers is that they provide cheap and an uncomplaining labour force who can be used for definite periods and then sent back with little encumbrance to the employer, unlike the local labour force, which entails a lot of formalities and political equations calling for very high demands from the employers in settling the issues with the local labour force. Hence such labour is in high demand in Kerala and in order to keep the cheap labour force from other states at work in the state, the employers resort to trafficking and traffickers for bringing in cheap labour from other states clandestinely, lest they invite government attention, thereby bringing those brought, under the ambit of labour laws and government regulations. This in turn has created a situation which is quite conducive for trafficking thereby giving rise to other kinds of trafficking also mainly with a lot of juveniles being brought into the state for various purposes. The areas of labour and related exploitation are relatively easy to detect, correct and rehabilitate, whereas those in areas of child care institutions and related activities have a garb of altruism about them which gives them relatively credible faces religiously and politically, thereby, rendering any inspection by the law enforcers being considered as sacrilege or even violation of child rights and altruistic motives.

Thus the process of children being brought into the state, into such institutions, without information to the concerned governments, by enticing the parents of the juveniles, by taking money from them to take care of their children, by giving false promises to make their children into worthy professionals, by making the children travel in sub human conditions, by illegally taking money from the state government parading these children as locals by producing forged nativity certificates, by making them study in schools which imparts education in languages alien to

them,by depriving them of parental care which is rightfully due to them by masquerading them as orphans in a distant state ,so on and so forth, qualifies the process as trafficking,since the whole process is being undertaken for the purpose of economic gains for the traffickers at the cost of the state exchequer, the children ,their parents and their future. Thus, the transfer and harbouring of such juveniles by exploiting their impoverished plights,through some local people who are influential in the respective communities,who are religious leaders with substantial command over the children's families,are recruited as teachers in the child care institutions in Kerala ,and the so called "ustaaads "from the source state function as the go between for trafficking of these juveniles. The "ustaaads" from the source states canvas the children through promises of a better living and a prosperous future. The already destitute family and parents who cannot fend for themselves, see this as a God given opportunity and send their children with the "ustaaads" to Kerala in the belief and hope that their children would prosper and later provide for the family.

But, it would be very interesting to know that these children who are brought in ,do not find a place in the government documents in any way since their identities are never revealed to the government authorities, and the social justice department,being the official agency authorised to monitor such institutions do not have the data regarding the actual identities of the juvenile inmates of such institutions,but, on the other hand,has only the number of inmates of such institutions,based on which they are granted government doles in the form of grants for the orphans in such orphanages. Now , it is pertinent to note that these children who were and are brought in to such orphanages are not accounted for in terms of their identities since they are not brought in through the authorised channels,and all that the authorities ensure before granting doles to these institutions is that they have requisite number of children and there is no proper verification as to whether the children in the previous year continue in the current year and what happened to the the yester year children who go back after their brief stints in Kerala. This lack of adequate checks and balances regarding the identities of the inmates of the orphanages provides a conducive situation fostering

trafficking and the religious and political faces of the organisations which deter any strong initiatives by the executive and all attempts at regularising such anomalies are construed as affronts to the religiosity and altruistic motives of the organisation paving way for further trafficking indirectly.

Thus ,it would be in state and lawful interest to ensure proper checks and balances into the system of running orphanages in the state by making sure that every child who is brought in is through authorised channels and the identity of every such child is accounted for with the authorities as well as the institution ,and no funds are mobilised illegally showing these children as orphans. In other words , anti human trafficking initiatives should start from enforcing such regulations and making of such regulations as is required for ensuring the identities of the inmates of the orphanages and that such of them who come in to Kerala are tended for well are turned out into better citizens on the morrow.

RECOGNISING CHILD ABUSE AND STRATEGISING SOLUTIONS

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Child, one of the amazing creations and a naïve being, is indubitably delicate and invariably delightful. As a source of inspiration and buoyancy every child and his activities require specific care, attention and analysis. Yet, around the globe, his innocent fragility is vulnerable to numerous varieties of torments, resulting in trauma and humiliation or even lead further to aggression and fatality. Each of such incidents is clandestine either in motive or in application and the gravity of such cases is revealed only when it becomes a matter of media revelry.

According to WHO: “Child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.” It has located the following areas of explicit concern.

- Almost 53,000 cases of child homicide.
- In the Global School-Based Student Health Survey carried out in a wide range of developing countries, between 20% and 65% of school going children reported having been verbally or physically bullied in school. Similar rates of bullying have been found in industrialised countries.
- An estimated 150 million girls and 73 million boys under 18 have experienced forced sexual intercourse or other forms of sexual violence involving physical contact.

- UNICEF estimates that in sub-Saharan Africa, Egypt and Sudan, 3 million girls and women are subjected to FGM (Female Genital Mutilation) every year.
- ILO estimates that 218 million children were involved in child labour in 2004, of which 126 million were engaged in hazardous work. Estimates from 2000 suggest that 5.7 million were in forced or bonded labour, 1.8 million in prostitution and pornography and 1.2 million were victims of trafficking.
- Only 2.4% of the world's children are legally protected from corporal punishment in all settings.

Child abuse, thus, is a state of emotional, physical, economic and sexual maltreatment meted out to a person below the age of eighteen and it consistently is a globally prevalent phenomenon. It has intense physical, psychological and societal impacts and implications on the child which are to be verified closely and suitable solutions identified.

India proudly homes 19% of world's children. Around 440 million of our total population is under eighteen years and out of this vast number, 40 percent are experiencing an acute deficiency of care and protection. Within each of our cultural, ethnic, regional and religious compartmentalization there are multiple paradigms of marginalization and among each of these clusters the most susceptible section are the children. Along with copious instances of physical torments, sexual abuse and neglect there are supplementary concerns related to children like malnourishment, underweight and child labour. All such issues cannot be treated in isolation but a comprehensive analysis on them is required to reach a workable solution. Unfortunately, attempts to identify the magnitude of the issue and to conduct a study of its diverse patterns are either directionless or inadequate. Such a closer analysis into the gravity of the issue is inevitable since the looming silence on the issue has to be dismantled and adequate regulations, guidelines and policies are to be formulated.

The Ministry of Women and Child Development has provided the following statistics on the extent of various forms of child abuse:

Physical Abuse

1. Two out of every three children were physically abused.
2. Out of 69% children physically abused in 13 sample states, 54.68% were boys.
3. Over 50% children in all the 13 sample states were being subjected to one or the other form of physical abuse.
4. Out of those children physically abused in family situations, 88.6% were physically abused by parents.
5. 65% of school going children reported facing corporal punishment i.e. two out of three children were victims of corporal punishment.
6. 62% of the corporal punishment was in government and municipal school.
7. The State of Andhra Pradesh, Assam, Bihar and Delhi have almost consistently reported higher rates of abuse in all forms as compared to other states.
8. Most children did not report the matter to anyone.
9. 50.2% children worked seven days a week.

Sexual Abuse

1. 53.22% children reported having faced one or more forms of sexual abuse.
2. Andhra Pradesh, Assam, Bihar and Delhi reported the highest percentage of sexual abuse among both boys and girls.
3. 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse.

4. Out of the child respondents, 5.69% reported being sexually assaulted.
5. Children in Assam, Andhra Pradesh, Bihar and Delhi reported the highest incidence of sexual assault.
6. Children on street, children at work and children in institutional care reported the highest incidence of sexual assault.
7. 50% abuses are persons known to the child or in a position of trust and responsibility.
8. Most children did not report the matter to anyone.

Emotional Abuse and Girl Child Neglect

1. Every second child reported facing emotional abuse.
2. Equal percentage of both girls and boys reported facing emotional abuse.
3. In 83% of the cases parents were the abusers.
4. 48.4% of girls wished they were boys.

Child abuse thus is an intricate affair that requires a careful analysis. Apart from the manifest causes that lead to child abuse there are various understated factors that lead to child abuse:

1. High expectation levels of parents and inability of the child to achieve it.
2. Familial discord and disharmony in relations.
3. Use of drugs, alcohol and other intoxicants.
4. Children with physical deformity or disability
5. Financial deprivation, job dissatisfaction, loss of employment and subsequent abandonment.
6. Ill treatment by non-biological parent.

7. Emergence/ existence of a social order with a considerable lack of moral/cultural stigma.

There are innumerable number of national as well as international schemes, policies, Acts, Regulations and Covenants that directly address the issue of Child Protection, like, Convention on the Rights of the Child (CRC) adopted by the UN General Assembly in 1989, SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution, National Charter for Children (2004), National Plan of Action for Children (2005) etc. to cite a few. Moreover, the Right to equality, protection of life and personal liberty and the right against exploitation that are enshrined in Articles 14, 15, 15(3), 19(1) (a), 21, 21(A), 23, 24, 39(e) 39(f) reiterate India's commitment to the protection, safety, security and well-being of all its people, including children. Despite the plethora of legalizations in this regard the hazardous practices of child maltreatment continues unabated in various forms.

The following strategies can be adopted so as to ensure better living conditions and conducive environment for children.

1. Drafting of a comprehensive policy on the prevention of child abuse is an essential strategy in the process of critical intervention. Such a policy should comprehensively address entire gamut of the issues like sexual abuse, neglect, child pornography, child labour, bullying, trafficking etc. Statutory care-mechanisms and community mechanisms oriented towards rehabilitation also are to be promoted and definite roles to be assigned to specific agencies.

2. In spite of targeting the victims of mistreatment on particular occasions and identifying the extent and intensity of the crime committed, we need to have an inclusive/preventive shelter system encompassing entire children in the nation. Such protective and supportive involvement is significant to safeguard the rights of children. Such a nation-wide design with distinct standards and procedures should include in it sufficient financial and human resources allocation.

3. In order to provide ample assistance to child trapped in an abusive situation, detailed outreach services are to be rendered like counseling services, monitoring systems, medical aid and assistance from police and other legal components. It must be treated as an emergency service with expanded objectives and extended outreach.

4. As a result of destitute conditions a number of children are forced into compulsory labour and thus are deprived of their right to education and other fundamental rights guaranteed by the Constitution. Such sufferers are to be revitalized by providing them with basic amenities, education and other essential support. Help groups are to be formed in each locality with the help of Local Administration and meticulous methods are to be planned and implemented. Such activities are to be synthesized with the various governmental policies and action plans.

5. Media, both conventional and social media, should be utilized to the maximum to engender awareness on the issue among general public. Media can ensure and enhance ethical standards to effective proportions. Case studies can be made and exposed to showcase the intensity and profundity of the issue and thus making public realize the gravity of the situation.

6. The rights of children, their care and protective schemes, legal/ legislative support etc. are to be compulsorily made a part of school/ university curriculum so that an overall awareness is generated and quite a number of people are initiated into carrying out the strategies.

Child abuse, being a pernicious reality, has to be wiped away from any society that is desirous of becoming progressive. The insidious episodes of abuse, how furtive they are, should be properly addressed and redressed. Every child is precious, as in him rests the future of a society, a nation and mankind at large. Every attempt to preserve his identity and uphold his dignity is to be appreciated as it is not an isolated attempt to save a child's life; rather an invaluable endeavour to fortify our moral edifice and value systems. Can we ensure a child a life "free

of violence and fear”, as Nelson Mandela aspired, will be the question that will require a definite answer and its answer, in turn, will definitely define the future of our civilizational progress.

References:-

1. World Health Organization (1999): Report of the Consultation on Child Abuse Prevention; Geneva, http://www.who.int/violence_injury_prevention/violence/neglect/en/
2. ‘Study on Child Abuse’: India 2007: Ministry of Women and child development, Govt. of India.
3. Noh Anh, Helen (1994). “Cultural Diversity and the Definition of Child Abuse”, in Barth, R.P. et al., *Child Welfare Research Review*, Columbia University Press, 1994
4. *Working with ‘Denied’ Child Abuse: The Resolutions approach*: Andrew Turnell and Susie Essex, Open University Press, 2006.
5. *Understanding Child Abuse and Neglect*: Cynthia Crosson- Tower, Pearson Education, 2013.

**ANALYSIS OF THE ROLE OF POLICE:
IMPLEMENTATION OF THE PROTECTION OF
CHILDREN FROM SEXUAL OFFENCES ACT, 2012
(POCSO ACT)**

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42% of the total population of India is below eighteen years, the second largest child population in the world. United Nations Convention on Rights of child ensures four set of rights to all children: Survival, Protection, Development and Participation. As India ratified the convention in 1992, India is duty bound to uphold and protect all those rights. But the studies and crime statics reveals shocking state of affairs in our country. More than 53% of Indian children are subjected to sexual abuse and 55% of boys and 44.96% of girls reported of Sexual Abuse. ¹

Scenario in the Gods own Country, Kerala is more alarming. Out of 2286 cases registered as crimes against children in the State of Kerala in the year 2014 (provisional), 709 cases belong to the crime head of “rape”. ² In the first quarter of the year 2014, about 400 cases of sexual assault against children were registered across the country and Kerala alone has reported about 145 cases, the highest among all States till March 2014. ³ But it is just a tip of the iceberg because most of the cases go unreported.

The World Health Organization (WHO) defines child sexual abuse as: “the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child

other person.”⁴ Child sexual abuse is a violation of all the rights guaranteed to a child under our constitution and under various international documents.

Pre POCSO laws:

Even prior to Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO Act), in India, there were many laws that address the issue of Sexual offences. Indian Penal Code, Juvenile Justice (Care and Protection of Children) Act,2000, Protection of Women from Domestic Violence Act, 2005, Information Technology Act, 2000, Kerala Police Act, 2011 are some among them. But not a single enactment was able to tackle the problem of Child Sexual Abuse in particular.

Sexual Offences punishable under Indian Penal Code do not consider child sexual abuse as a specific offence. The IPC broadly provided punishment for sexual offences like insulting women (Sections 509), outraging modesty of woman (Sec. 354), Rape (Sec. 375, 376) and Unnatural offences (Sec. 377). Sections 509, 354 and 376 are offences exclusively against women. But many studies reveal that akin to girls, boys are also prone to sexual abuse. But the above said provisions are not adequately equipped to combat offences against a boy child. Only proven “sodomy’ with boys were punishable.

Moreover, the penetration of penis is necessary for a sentence under Sections 376 & 377. But in myriad of cases, the children are being abused not only by penile penetration but by penetration of other body parts like finger or some other object like rods into the child’s body. The Child Sexual abuse also covers a wide range of sexual activities like fondling, kissing, touching private parts and also making the child to do the same. It also includes exposure to voyeurism, exhibitionism, showing pornography and all sort of sexual coloured remarks and advances and much more sexual behaviour.

children especially the boys. In many cases, the abusers tend to commit such crimes repeatedly. But no law was in force to deal with habitual offenders.

To overcome lacuna in the legal provisions, POCSO Act, 2012 was passed in the Parliament on 22th May, 2012 and got Presidential Assent on 19th June 2012 and came into force with Rules from 14th November, 2012.⁵

Significant features of the Act

POCSO Act is an excellent piece of legislation which comprehensively patches the gaps which existed earlier. It is a gender neutral Act comprising child friendly procedure which specifically deals with all forms of child sexual abuse/assault. The Act aims to protect children from offences of sexual assault, sexual harassment and production of pornographic movies/videos, books and objects using children and thereby upholds the rights of children guaranteed by the U.N. Convention on Rights of Child, 1989 and Constitution of India. It provides adequate punishment to the offenders and establishment of Special Courts to ensure child friendly procedures.

The Act removed the confusion regarding the age and gender of child in the pre POCSO laws. As per Section 2(d) of this Act, any person below the age of 18 is a child. The term “person” denotes the gender neutrality. A girl, boy or a third gender child who has not attained 18 years will get protection under this Act. Unlike the preceding laws, it provides gender neutrality in case of accused also. Before the POCSO Act, in Rape cases, only men could be charged. But under this Act, whoever commits an Offence which is penetrative in nature, whether male, female or others may be charged. Moreover, any person of any age may be an accused under this Act. Another notable aspect of this Act is that it does not give any relevance to the consent of the child. So

Act to give information to the Special Juvenile Police Unit or to the local police.(Section.19). ie the Act provides for a mandatory reporting.

The Act provides for many child friendly procedures along with the regular criminal procedures. This is in tune with Sakshi vs.Union of India.⁶The Act provides that the evidence of the child shall be recorded within a period of thirty days of taking cognizance of the offence and shall try to dispose off the case within one year. While recording the examination-in-chief, cross-examination or re-examination of the child, the questions to be put to the child would be communicated to the Special Court which shall in turn put those questions to the child. If necessary, frequent breaks for the child during the trial would be allowed. A family member, a guardian, a friend or a relative, in whom the child has trust or confidence, may be allowed to be present with the child while taking statement by the police, magistrate or by the Court and during medical examination. It provides that the child will not be called repeatedly to testify in the court and the dignity of the child is maintained at all times during the trial. Aggressive questioning or character assassination of the child is not allowed. It ensures that identity of the child is not disclosed at any time during the course of investigation or trial except in the interest of the child. The Act covers direction for payment of compensation to the child for any physical or mental trauma caused to him, or for immediate rehabilitation of such child (section 33). It also ensures that the child is not exposed in any way to the accused at no point of time. The trial is in camera and if necessary may record the statement of a child through video conferencing or by utilizing single visibility mirrors or curtains or any other device. (section 36). If necessary, child may be examined by a commission also (section 37). The provisions for a separate legal aid counsel, Support person, rehabilitative measures and compensation strive to ensure the protection of the child. The key procedural difference is the absence of committal proceedings and provision of trial in special court. It provides for presumption that a person has committed or abetted or attempted to commit the offence under sections 3, 5, 7 and section 9 of this Act as the case may be unless the contrary is proved. (Section 29). It also provides for the presumption of culpable mental state. (Section 29)

Offences under the Act

The Act deals with seven types of sexual offences and eight non sexual offences. Abetment and attempt to commit the sexual offences are also punishable.

A. Sexual offences

1. Penetrative sexual assault (Sec.3): All types of Sexual act which is penetrative in nature, whether forceful or with consent - natural, unnatural or oral sexual contacts.
2. Aggravated Penetrative Sexual Assault (Sec.5): The gravity of the offence of a Penetrative Sexual assault increases with the authoritative position of the offender, the vulnerable position of the child and considering the factors like when and how it was committed, its impact on the child, acts after the offence and repetition. The Penetrative sexual assault which becomes grievous due to the above said situation makes it an aggravated penetrative Sexual assault. eg, offence committed by a police officer or on a Mentally or physically challenged child *or* below twelve years etc.
3. Sexual assault (Section 7) : Sexual acts without penetration eg. touching private parts etc
4. Aggravated Sexual assault (Section 9): Grievous form of sexual assault
5. Sexual harassment (Section 11): stalking, showing pornography etc.
6. Use of a child for pornography material/s like pornographic movies/ videos, books or other objects (Section 13).

The offence is not only limited to such an act committed on a child but also extends to such acts which make the child to do so to the person or any other person.

7. Storage of pornographic materials involving a child (Section 15)

All sexual offences are cognizable and non bailable.

B. Non Sexual Offences:

- 1.Failure to report offence (Sec.21(1))
 - 2.Failure of media, hotel, hospital, studio, club or photographic facility to report about pornographic or sexually exploitative object involving a child – (Sec.21(1))
 - 3.Failure of the police to record information relating to commission of offence or apprehension that an offence is likely to be committed (Sec.21(1))
 - 4.Failure of head of company or institution to report an offence allegedly committed by a subordinate (Sec.21(2))
 - 5.False complaint about sexual offences against an adult (Sec.22(1))
 - 6.False complaint about sexual offences against a child(Sec.22(3))
 - 7.Making reports or comments on any child through the use of any form of media or studio or photographic facilities without having complete and authentic information or direction (Sec.23(4))
 - 8.Disclosure of the identity of a child in the media (Sec.23(4))
- All non sexual offences are non cognizable and bailable.

Role of police:

However strong the provisions of the law may, the effectiveness depends mainly on the authorities who are responsible for its implementation. Like any other criminal law, the Act places substantial responsibility on Police. In addition to the procedures under Criminal Procedure Code, this Act introduces additional procedures to be followed by the police and the courts. While dealing with a survivor of child sexual abuse, the Act sets certain statutory obligations for sensitive handling of the child by the police to meet the objective of the Act in letter and spirit.

A.Pre Trail Responsibility

1. Recording information:

The Act provides for mandatory reporting of offences before the Special Juvenile Police Unit or to the local Police. (Section 19). It also provides for an express obligation upon media personnel, staffs of hotels, lodges, hospitals, clubs, studios, or photographic facilities, to report a case if they come across materials or objects that are sexually exploitative of children. Hence whenever any information is received by the Police, they should record the information immediately. The purpose of recording the report under section 19 of the Act is to take immediate steps for the benefit of the child and to secure care and protection to a child. On receipt of information the Police should record it in writing and ascribe an entry number. They should read over it to the informant and enter it in a book to be kept by the Police Unit. (Section 19). The officer receiving information shall disclose his name, designation, address, telephone and also the telephone number, name and designation of his supervising officer to the informant (Rule 4). Failure to record the information by police is an offence punishable with imprisonment for six months or with fine or with both under section 21 of the Act. Moreover, as per section 166-A (c) of Indian Penal code, if a police officer, as a public servant, fails to record any information given to him under section 154 of Cr.P.C in relation to cognizable offences like sexual offences the officer shall be punishable with imprisonment of not less than 6 months and up to 2 years and with fine.

2. Register First Information Report:

If the police found the commission of a cognizable offences F.I.R. should be registered . A copy of the F.I.R shall be given free of cost to the informant. F.I.R. may be based upon the statement of the child recorded under section 19. It is to be noted in this juncture that Section 42 of the Act provides for Alternative punishment. Where an act or omission constitute an offence under this Act and also under any other law, the Police can charge the offender under this Act and the other Act. If the special court finds the offender guilty of such offence shall be liable to punishment only under such law or this Act as provides for punishment which is greater in degree. Hence if an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370,370A, 375, 376, 376A, 376C, 376D,

376E or section 509 of the Indian Penal Code (45 of 1860) and if the offender is found guilty of such offence, he shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.”

It is also to be noted that the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.” (Section 42A).

3. Recording Statement:

It is the most crucial phase in a POCSO case. The statement of the child is to be taken by the police empathetically. The officer should realize the fact that the child will be in a distressed stage and they are total stranger for child survivors. They may be reluctant to reveal the whole facts in the very first instance. They should talk with the child in a very friendly manner which needs lot of patience. The Statement shall be recorded in the presence of the parents of the child or any other person in whom the child has trust or confidence (Section 26). But if the accused is the father or close relatives, they should not be allowed to accompany the child. In some cases, the offence would have committed with the connivance of the mother, in such cases also they should be avoided. The child may be allowed to be accompanied by any other person in whom the child has trust or confidence. They can also avail the services of an NGO or Support person. The more comfortable a child is, the more information the child is likely to share. Children may be too embarrassed to share intimate details. Before recording the statement, the officer should establish a good rapport with the child. The child may not reveal the whole account at a stretch. The officer should patient enough to track the complete incident. It is very important to believe the child and not to blame the child. The officer should clarify the following:

- b) The identity of the perpetrator(s).
- a) Descriptions of events.
- c) Whether allegations involve a single event or multiple events.
- d) The presence and identities of other witnesses.
- e) Whether similar events have happened to other children.
- f) Whether the child told anyone about the event(s).
- g) The time frame and location/venue.
- h) Physical and mental condition of the child.

The provisions of the Act mandate a special procedure for recording a statement of a child by the police. The statement should be recorded in a place comfortable to the child. It may be at the residence or place where the child usual reside or the place of their choice. Sometimes the child as well as the parents may expresses their objection over the statement being taken in the schools or in their own house due to the social taboo over the sexual harassment. In many cases the parents even complained about the visits of Police in the “Police Vehicle”. This may affect the privacy and confidentiality of the child. It is a statutory obligation of the police officer to ensure that the identity of the child is protected from the public media, unless otherwise directed by the Special Court in the interest of the child. In such cases, the police may avail the facility of One Stop Crisis Cell (OSCC) under “Nirbhaya” Project also ⁷

The statement of a child is to be recorded in simple language as spoken by the child (Section 26). It should be in verbatim. ⁸ Unnecessary questions that violate the dignity and privacy of the child should be avoided. As per section 24 of this Act, as far as practicable, the child’s statement should be recorded by a woman police officer not below the rank of sub-inspector. But if it is not practically possible, that can be done by any other police officer. But as per proviso to section 161(3) of Criminal Procedure Code, the statement of a girl child against whom any sexual offences under Indian Penal code is alleged to have committed or attempted shall be recorded only by a woman police officer or a woman

officer. A police officer, if possible, shall make audio-video recording of statement of a child in order to avoid revictimization. It is also important to ensure that the child is not fantasizing or imagining such sexual acts. In rare number of cases the child may narrate a false story. So it is for the police to carefully unfold the real facts.

The contents of the statement should be read-over and explained to the child. If a child is mentally or physically challenged like deaf and dumb, the police officer can seek the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the child. If the officer does not know the language of the child, he can seek the help of an interpreter, translator, if necessary. It is advisable to keep telephone numbers of translators, interpreters, special educators and experts to contact them as and when required. ⁹

The Police officer shall not be in uniform while recording the statement of a child. (Section 24(2) and provisions of Juvenile Justice (Care and Protection of Children) Rules, 2014) The officer shall also ensure that child is in no way comes in direct contact with the accused for any reason including identification whether before or after recording such statement. The child should not be taken to the police station as witness nor detained in the police station during the night for any reason.

4. Produce the child for recording statement under section 164 of Cr.P.C.

The child may be produced before the magistrate for recording statement under section 164 of Cr.P.C. But, if the offence is penetrative in nature and attract the definition of “rape”, the investigating officer shall take the child immediately, as far as possible, to the nearest lady magistrate and if there is delay beyond 24 hours, they should record the reason in the case diary and hand over a copy to the Magistrate. They

shall record the date and time they learned about the commission of the offence and the date and time when they took the victim to the Magistrate. She shall handover the copy of the statement under section 164 of Cr.P.C. immediately to the investigating officer by the Magistrate with a specific direction that it should not be disclosed to anyone till charge sheet under section 173 of Cr.P.C is filed. This provision is applicable only for cases charged with rape along with offences under this Act. ¹⁰

5. Arrange for medical examination and emergency medical care for the child:

The medical and forensic examination of the child is very crucial evidence in all sexual assault cases. It is necessary to establish the commission or attempt of a sexual act, to identify whether the sexual act is recent or whether it was forceful. It is also essential to verify the age of the child in case of pre-pubertal/adolescent child, to ascertain influence of alcohol or drugs administered to the child and the most important is to provide treatment for injuries sustained in the assault and get appropriate referrals for the child.

Hence it is the duty of the police to arrange for the access of medical care to the child and escort the child for medical examination. Registration of First Information Report or complaint is not a pre-requisite for medical care. If there is a need of urgent medical care and protection, the police shall, as soon as possible, arrange to take such child to the nearest hospital or medical care facility centre for emergency medical care. In all cases of penetrative sexual assault and also sexual assault and its aggravated forms, (Sections 3,5,7, & 9) the victim shall be referred to emergency medical care immediately even though there is no evident injury.

The child should be examined by a registered medical practitioner employed in a hospital run by the Government or a local authority and in the absence of such a practitioner, by any other registered medical practitioner. (Section 27 of the Act and Rule 5 read 164-A of Cr.P.C.).

If the child is a girl, the examination shall be conducted by a lady doctor. But it may not necessarily be conducted by a Gynecologist. It shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence and with the Consent of the child or a person on behalf of the child (164-A of Cr.P.C). It is noticed that the police is compelled to take child survivor to many medical institution seeking medical help due to the refusal from doctors. This may augment the mental agony and trauma of the child. In order to avoid such situation, it is advisable for the police to prepare in advance a list of telephone/cellular phone numbers of hospitals and doctors for the arrangement of immediate medical examination or treatment. As per section 357-C of Cr. P.C, all hospital, both Government and private, shall provide first aid or medical treatment to the victims of rape cases and shall report immediately to police. As per 166-B of Indian Penal Code, whoever being in charge of such hospitals or any other person contravenes this provision shall be punishable with imprisonment of one year or with fine or both. Hence the police may take action against the refusal to give medical assistance to the child. It is also to be noted that medical examination of accused is also mandatory under section 53-A of Cr.P.C. It is the duty of the police to ensure that the samples for forensic tests are sent to laboratory concerned at the earliest and without delay.

6. Making a preliminary assessment as to protection of the Child.

If the police is satisfied that the child is in need of care and protection, then, it shall make immediate arrangement to give him such care and protection, within twenty-four hours of the report. (Section 19(6) & (7), including admitting the child into shelter home or to the nearest hospital and without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee (C.W.C) and the Special Court including the child's need for care and protection and the steps taken in this regard. The police play a very important role in the safety and protection aspect of the child because

the Act entrusts the police to assess the safety element of the child. So police should be very careful while making such assessment. The Police should bear in mind that the children may be unsafe even with their parents and sometimes very safe even with non parents.

To ensure protection of the child, the Police should see that the child in no way comes in the contact with the accused. The child shall not be detained in the police station in the night for any reason. The statute lays responsibility on police to ensure protection of identity of the child from the public media, unless otherwise directed by the Special Court in the interest of the child (Section 24).

7. Reporting the case to the Special Court (Section 19(6))

Police should without unnecessary delay but within a period of twenty-four hours, report the matter to the Special Court, including need of the child for care and protection and steps taken in this regard. The Act provides for a special procedure for trial without Committal Proceedings in the Magistrate Court (Section.33).

8. Reporting the case to the Child Welfare Committee (Section 19(6))

If the police has a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person/s living in the same or shared household with the child or the child is living in a child care institution and is without parental support or the child is found to be without any home and parental support the child should be produced before the Child Welfare Committee concerned within 24 hours of receipt of such report including reasons in writing as to whether the child is in need of child care and protection, and steps taken in this regard. (Rule 4(3). Upon satisfaction (and after recording the reasons in writing) that the child needs care and protection, the police shall request the CWC for a detailed assessment. The facts recorded by the police need

to be taken into consideration by the CWC. The police escort of a girl child to the CWC shall be preferably by a female. (Rule 27(15) of the Juvenile Justice (Care and Protection of Children) Rules, 2009).

9. Inform about Legal aid:

The Act provides for a special right of the Child to take assistance of a legal practitioner in addition to the Public Prosecutor. (section 40). On recording information under section 19, police shall immediately inform the child and its parent of their right to receive free legal aid and be represented by a legal aid counsel. The child can appoint a lawyer of his own choice or can get the free service of a lawyer from Legal Services Authority which is available even in Taluk and District level. As the police is duty bound to inform about this service they may collect the address and telephone numbers of the Legal services Authority to help the child or person on his behalf.

10. Inform of support services:

The police should inform the child and its parent or guardian or other person having child's trust and confidence about the support service including service of Support Persons, counseling, legal aid, medical assistance etc and assist the child and its parent etc., to establish contacts with responsible persons providing services and relief. They shall also inform about the Compensation Scheme.

B. Responsibility during the course of trial:

The responsibility of the police continues and ends only on the conclusion of trial by the Special Court. The Police must ensure the protection of the child as well as the witnesses. The police shall ensure that the identity of the child is not made public and also protected from media throughout the procedure. The child and its parents etc shall be given information about the progress in investigation (but no disclosure which interferes with investigation and trial), including arrest of accused,

bail or his detention status, filing of charge sheet against accused, schedule of court hearing that the child must and may attend and the judgment after trial and sentence imposed, if any. The police shall ensure a child friendly atmosphere in court.

Conclusion:

POCSO Act is described as a revolutionary step, a comprehensive law that meets international standards. The police play a multifaceted role under the POCSO Act. Apart from the usual business of police, the Act places the police in the role of a child protector during the investigative process, as a counselor, a social worker, a support person and more. Special training to develop the skills of counselling, interviewing of the child and awareness of child rights and other child protection statutes is very essential. The special juvenile police unit as specified in the Juvenile Justice Care and Protection of Children Act, 2000 should be constituted. To avoid the allegation of fake case and revictimisation of the child it is always advisable to take the audio video recording of the procedures. But it should not adversely affect the privacy, dignity and confidentiality of the child. The societal prejudice may compel the child or parents to withdraw the complaint. Police should avoid acting as mediators. Police should never allow a criminal to escape from the clutches of the law because most of them are perverts and if left loose, they may repeat the crime.

The police is the real watchdog of the children, should keep an eye on all child care institutions, beaches, parlours etc and should taken strict measures against child labour. They may identify the areas prone to abuses by way crime mapping. The Janamytri police can volunteer to generate awareness among children, parents, teachers, counselors and all other stake holders on the issue of such abuses. There should be zero tolerance on child Sexual Abuse and all must strive to ensure 100% conviction.

Wrapping up, the Act is a comprehensive and well thought out piece of legislation which needs proper implementation from the part of all stakeholders including police to ensure its effectiveness.

1. Study on Child Abuse: India 2007
2. Kerala State Crime Records Bureau.
3. <http://www.dailypioneer.com/nation/400-cases-registered-under-pocso-act-till-march.html>.
4. World Health Organization, Social Change and Mental Health, Violence and Injury Prevention, Report of the Consultation on Child Abuse Prevention, pp. 13-17, Geneva, 29-31 March 1999.
5. Gazette Notification No. S.O. 2705(E) dated 19-11-2012
6. AIR 2004 SC 3566.
7. G.O.(Rt) No. 119/2013/SJD dated 18.03.2013 Social Justice (b) department
8. Kerala Police Head Quarters Circular No. 01/2009 dated 11/03/2009
9. Model Guide lines Guidelines for the Use of Professionals and Experts under the POCSO Act, 2012 September, 2013, Ministry of Women and Child Development
10. State of Karnataka, Nonavinakare Police vs. Shivanna (2014 (2) K.L.T 767),

How Policing can optimise youth power

Rohit Choudhary

A total of 38,172 cases of crimes against children were reported in the country during 2012, as compared to 33,098 cases during 2011, suggesting an increase of 15.3%. Among IPC crimes, cases of kidnapping and abduction have increased by 19.5% during the year (from 15,284 in 2011 to 18,266 in 2012). Youth also remain highly vulnerable to crimes such as drugs abuse, which was even a matter of concern for the Prime Minister as expressed during his radio talk, bullying (also cyber bullying now) and youth violence.

Effect of youth engagement

According to the United Nations population fund's state of the world's population report, India has a larger proportion of youth population than the rest of the world. The "emergence of a large youth population of unprecedented size can have a profound effect on any country. Whether that effect is positive or negative depends largely on how well governments responds to young people's needs and enable them to engage fully and meaningfully in civic and economic affairs", the report says.

While India can boast of the largest youth population, yet youth remain on periphery in the overall policing plans and security architecture. If Police are in regular touch with the youth then they can understand youth issues and concerns better and think about addressing them. If the younger generation is reached early enough they can develop strong, positive attitudes and respect Police Officers and the law. Such respect is beneficial to the young person, the Police Officer, the community, and the society.

"while India can boast of a large youth population yet youth remain on the periphery in the overall policing plans and security architecture. By being in touch with the youth, the police can understand their concerns better"

Initiatives in India

In 2010, Kerala Police took a laudable initiative to establish Student Police Cadets (SPC) corps in 127 high schools/higher secondary schools across Kerala, with 11,176 students, both boys and girls, enrolled as cadets and 254 teachers trained as school – level Community Police Officers. It has now expanded to 247 schools and 15,000 cadets across Kerala jointly by Departments of Home and Education with the support from Departments of Local Self Government, Transport, Excise and forest. Various public sector enterprises are associated with the SPC under their Corporate Social Responsibility (CSR) projects.

Following the lead Rajasthan has launched the SPC project in the year 2013, and Gujarat has also launched similar units in the state to reach out to the students in selected schools of the state. Haryana Police have proposed to start SPC programme in four zones. Besides Karnal, the Districts which have been chosen for the pilot projects are Kurukshetra and the commissionerates of Ambala – Panchkula and Gurgaon. A resolution passed in 41st All-India Police Science Congress held at Dehradun, 2011, recommended all states of India to adopt the SPC project and nation wide rollout of the SPC project is being considered at the level of the Union Home Ministry.

Globally, the interaction between the youth and the Police has been an integral part of Policing. Through multiple programmes, apart from developing a positive relationship with youth, police also intervenes with youth offenders and victims of crime. Interaction is effectively leveraged for identifying youth needs, underlying causes of crime and victimisation, formulating police policies and aligning policing activities. Emphasis is laid on community partnership, multi-agency approach and training. In order to understand young people's perspective on issues that affect them, the Royal Canadian Mounted Police (RCMP), National youth Advisory Committee (NYAC) brings together youth from all over Canada to discuss important issues that they face in their respective

communities, while providing valuable input to the RCMPs policies, programmes and strategies.

Online forum

The members of the NYAC interact through a secure online forum and discuss youth crime and victimization issues, such as drugs, impaired driving, bullying etc. These discussions help the RCMP tailor their resources to meet the needs of Canadian youth and provide the RCMP with a much-needed window into what youth feel the real issues in their communities are.

The Metropolitan Police Service (MPS) London, which is committed to learning and developing to improve the services it provides made the inclusion of the voice of London's young people central to its efforts. In order to understand the youth related issues, the MPS conducted an online youth survey of 35,000 London's younger teenagers during September 2012, for issues of most concern to them. They published the findings and follow-up with problem solving actions at local neighbourhood and brought wide, and at pan-London levels.

Problems and Police activities

In order to make the youth engagement programme a success. it is essential that the police department adopts a model which links the youth problems to the police activities. The MPS youth engagement model directly links the local youth panels with the problem solving approach and with this young people are involved in shaping their services. They have a dedicated youth engagement co ordinator on every borough to deliver the MPS youth engagement model, to ensure that every borough is working to a youth engagement delivery plan, professionalising and expanding the MPS-led volunteer police cadets, engaging and developing youth ambassadors from various parts of London who speak directly to senior police leaders and developing longer term strategic youth engagement.

The New South Wales (NSW) Police Force in Australia has a youth strategy 2013-2017, which aims to provide a frame work for interaction between police officers and youth. Objectives and priorities identified in this youth strategy are supported by actions and performance measures in command business plans.

Collaborative approach

Australian Police addresses the youth issues collaboratively, from a whole-of-government approach in order to achieve positive outcomes for youth and the community. The police there have also experimented by assigning of some responsibilities to no-police with skills in the areas to be addressed by deploying civilian youth development officers in a metropolitan police station.

The RCMP believes that long – term prevention of youth crime and victimisation can only be accomplished in partnership with the community. For this reason, the RCMP works closely with local organizations and social services so that young people who come into contact with the police, as either victims or offenders, receive the help they need to overcome the challenges in their lives. Police is also intervening with youth offenders and victims of crime to address underlying causes of crime and victimisation through direct programming, multi-agency partnerships and referrals to community programmes.

Age-appropriate groups

In view of different capacities at different age groups, youth need a variety of programmes tailor – made for their specific needs. The Los Angeles Police Department has three different programmes for the young of different age groups. The deputy Auxiliary police (DAP) programme supervised by police officers and concerned parents, is designed for children aged 9 through 13 years. This programme allows children to participate in activities that instill a sense of community pride,

self-discipline and leadership ability in an overall positive environment. The Jeopardy programme is a gang prevention / intervention programme for boys and girls aged 8 through 17 and their parents. Jeopardy combines the strength of the community, neighborhood schools and the police department to effect positive, lifelong attitudinal changes in young people so as to have a positive impact on the community. This programme is dedicated to helping children avoid a life of crime and gangs. For the age group between 13 and 20 years of age there is the Cadet Programme.

Building Training Resources

To make the programme a success it is critical that the training resources are also built up, both for the youth and the police officers assigned to interact with the youth. The New York City Police Department has an innovative and effective youth police academy for the city's young people that promotes positive interaction with the police officers, enhances responsible citizenship, educates young people about the challenges and responsibility of police work and encourages young people to take part in other youth programmes offered by the police departments. These are: The Law Enforcement Explorers, Police Cadet Corps and the Police Athletic League.

The website of the Centre for Youth Crime Prevention provides police officers and adults working with youth with tools and resources to assist them in their interaction in schools and the community. It provides resources on youth crime and victimization issues such as bullying, internet safety, dating violence and impaired driving, among others. The establishment of police student corps in some of the states is a step in the right direction. There is a need to strengthen and expand youth programmes by adopting a comprehensive police youth engagement strategy, by all states. Youth in India deserve a safe environment and diversion from the criminal-justice system, so that their need to flourish and develop is met.

Recommendations of Gore Committee & National Police Commission

The Gore Committee on Police Training 1971 proposed a police programme under the National Service Corps Scheme in selected colleges or universities to help in developing healthy contact between the police and the students. Lectures could be combined with field trips and visits to police establishments during which police operations could be seen at first hand by the students. For this purpose, they could accompany police officers on beat duty and night rounds, traffic regulations and control, control of crowds at public meetings and processions, and cricket, football, and hockey matches. They could also be shown how police go about their job of controlling criminals, dealing with the investigation of crime, traffic accidents, unnatural or suspicious deaths and above all, helping the needy, the women and children.

The National Police Commission (1977) stressed that the police should develop healthy contacts with the student community to develop their interest in police as a profession. Police – Student interaction in non-conflict situations should be encouraged, be it on play-fields, community projects and similar extracurricular activities. Commission recommended establishment of boys and girls clubs.

Youth engagement strategy for police

- 1) Increase youth awareness through school based prevention initiatives, youth – police partnerships, online resources and technology enabled interface.
- 2) Form youth advisory committees for input towards police policies and strategies.
- 3) Develop a youth engagement model directly linking youth advisory committee inputs with a problem solving approach.

- 4) Launch a youth crime prevention website to train police officers and assist them with tools and resources to interact with youth.
- 5) Designate youth engagement coordinator in every police station to ensure a youth engagement and safety delivery plan
- 6) Early intervention and prevention initiatives diverts youth from the criminal-justice system.
- 7) Plan different programmes for young of different age groups, offenders and victims.

III

Documents on Policing

INTEGRATED PLAN OF ACTION TO PREVENT AND COMBAT HUMAN TRAFFICKING WITH SPECIAL FOCUS

ON CHILDREN AND WOMEN

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I. Introduction

Trafficking in human beings, more so in women and children, is one of the fastest growing forms of criminal activity, next only to drugs and weapons trade, generating unaccountable profits annually. The reasons for the increase in this global phenomenon are multiple and complex, affecting rich and poor countries alike. India is no exception to this. The source areas or points of origin are often the more deprived places, regions or countries, and the points of destination are often — although not always — urban conglomerates within or across borders. For all those who view trafficking in economic terms, it is the real or perceived differential between the economic status of source and destination area that is important. In practice, however, human beings may be and are trafficked from one poor area to another poor area as well for reasons best known to the traffickers, a fact that has been corroborated by research studies and documentation across the world. The fact that the process of trafficking is designed and manipulated by traffickers for their own ends for which they employ all kinds of means, it would, therefore, be wrong to assume that human beings are always trafficked from undeveloped to more developed places, as this is not always so. This, to a large extent, also signifies that trafficking primarily is a human rights issue for it violates the fundamental human rights of all those who are trafficked. (and analysing it solely from an economic lens inevitably masks its human rights dimensions. Moreover, since tools of economic analysis are designed to explain and evaluate issues in terms of their overall efficacy, these tools, by and large, are not that well designed to protect and promote the goals of human rights— to delete).

1. Defining Trafficking

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United

Nations Convention against Transnational Organised Crime (Trafficking Protocol) that was adopted in the year 2000 and came into force in December 2003, has perhaps brought the much-needed and widespread consensus on a working definition of trafficking at the global level. Article 3 of the Protocol defines trafficking as:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

The above definition clearly spells out that trafficking covers not only the transportation of a person from one place to another, but

also their recruitment and receipt so that anyone involved in the movement of another person for their exploitation is part of the trafficking process. It further articulates that trafficking is not limited to sexual exploitation only for it could occur also for forced labour and other slavery like practices. This means that people who migrate for work in agriculture, construction or domestic work, but are deceived or coerced into working in conditions they do not agree to, be also defined as trafficked people. The Government of India signed the Trafficking Protocol on 12 December 2002. This is a huge step forward in advancing the human rights of trafficked people as it not only prevents and protects the victims of trafficking but also punishes the traffickers. It encompasses the 1949 Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), all of which have been ratified by the Government of India. It would be pertinent to mention here that the Government of India has also ratified the two Optional Protocols to the Convention on the Rights of the Child – (i) on the Involvement of Children in Armed Conflicts and (ii) on the Sale of Children, Child Prostitution and Child Pornography. The Convention on Preventing and Combating Trafficking in Women and Children for Prostitution devised by the South Asian Association for Regional Cooperation (SAARC) in 2002, has also defined the term ‘trafficking’ as ‘the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected totrafficking’. The Government of India has also ratified this Convention.

2. Existent Framework

The Constitution of India, the fundamental law of the land, forbidstrafficking in persons. **Article 23** of the Constitution specifically prohibits “traffic in human beings and begar and other similar forms of

forced labour”. **Article 24** further prohibits employment of children below 14 years of age in factories, mines or other hazardous employment. Other fundamental rights enshrined in the Constitution relevant to trafficking are **Article 14** relating to equality before law, **Article 15** that deals with prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, **Article 21** pertaining to protection of life and personal liberty and **Article 22** concerning protection from arrest and detention except under certain conditions.

The Directive Principles of State Policy articulated in the Constitution are also significant, particularly **Article 39** which categorically states that men and women should have the right to an adequate means of livelihood and equal pay for equal work; that men, women and children should not be forced by economic necessity to enter unsuitable avocations; and that children and youth should be protected against exploitation. Further, **Article 39A** directs that the legal system should ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities. In addition to this, **Article 43** states that all workers should have a living wage and there should be appropriate conditions of work so as to ensure a decent standard of life.

The commitment to address the problem of trafficking in human beings is also reflected in various laws/legislations and policy documents of the Government of India. The **Indian Penal Code, 1860** contains more than 20 provisions that are relevant to trafficking and impose criminal penalties for offences like kidnapping, abduction, buying or selling a person for slavery/ labour, buying or selling a minor for prostitution, importing/procuring a minor girl, rape, etc.

The **Immoral Traffic (Prevention) Act, 1956 (ITPA)**, initially enacted as the ‘Suppression of Immoral Traffic in Women and Girls Act, 1956, is the main legislative tool for preventing and combating

trafficking in human beings in India. However, till date, its prime objective has been to inhibit/abolish traffic in women and girls for the purpose of prostitution as an organized means of living. The Act criminalizes the procurers, traffickers and profiteers of the trade but in no way does it define ‘trafficking’ *per se* in human beings. The other relevant Acts which address the issue of trafficking in India are the Karnataka *Devdasi* (Prohibition of Dedication) Act, 1982; Child Labour (Prohibition and Regulation) Act, 1986; Andhra Pradesh *Devdasi* (Prohibiting Dedication) Act, 1989; Information Technology Act, 2000; the Goa Children’s Act, 2003; and the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006. Beside these, there are also certain other collateral laws having relevance to trafficking. These are the Indian Evidence Act, 1872; Child Marriage Restraint Act, 1929; Young Persons (Harmful Publications) Act, 1956; Probation of Offenders Act, 1958; Criminal Procedure Code, 1973; Bonded Labour System (Abolition) Act, 1976; Indecent Representation of Women (Prohibition) Act, 1986; and the Transplantation of Human Organs Act, 1994.

The judiciary too has played an active role in preventing and combating trafficking by pronouncing some landmark judgments in “Public Interest Litigations”. Prominent among them are the 1990 case of *Vishal Jeet v. Union of India* and the 1997 case of *Gaurav Jain v. Union of India*. In the former case, on the directions given by the Supreme Court, the Government constituted a Central Advisory Committee on Child Prostitution in 1994. Subsequently, State Advisory Committees were also setup by State Governments. The outcome of the latter case was constitution of a Committee on Prostitution, Child Prostitutes and Children of Prostitutes to look into the problems of commercial sexual exploitation and trafficking of women and children and of children of trafficked victims so as to evolve suitable schemes in consonance with the directions given by the Apex Court. These and subsequent case laws thereafter have influenced Government policies, programmes and schemes, as well as law enforcement. The detailed report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes is at ‘**Annexure I**’.

3. Role of Ministry of Women and Child Development

Based on the Report of the Central Advisory Committee on Child Prostitution, the recommendations of the National Commission for Women and the directions of the Supreme Court of India as well as the experiences of various non-governmental organizations working in this area, the Ministry of Women and Child Development, the Nodal Ministry in the Government of India dealing with issues concerning women and children drew up a National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children in the year 1998. A Central Advisory Committee under the chairpersonship of Secretary, Ministry of Women and Child Development has also been constituted with members from Central Ministries like the Ministry of Home Affairs, Ministry of External Affairs, Ministry of Tourism, Ministry of Health, Ministry of Social Justice and Empowerment, Ministry of Information Technology and Ministry of Law and Justice to combat trafficking in women and children and commercial sexual exploitation as well as rehabilitate victims of trafficking and Commercial Sexual Exploitation and improve legal and law enforcement systems. This Committee meets once in every three months wherein senior representatives of State Governments where the problem of trafficking is found to be rampant are also invited. Other invitees to the meetings of the Central Advisory Committee are representatives of prominent NGOs and international organizations working in the area of trafficking, National Commission for Women, National Human Rights Commission, Central Social Welfare Board, National Crime Records Bureau, Border Security Force, Intelligence Bureau, Central Bureau of Investigation, Sashastra Suraksha Bal, etc. The Ministry of Women and Child Development has requested all Secretaries of the Department of Women and Child Development in the States and Union Territories to hold regular meetings of State Advisory Committee constituted under the 1998 National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of

Women and Children and monitor initiatives being undertaken by them with regard to prevention, rescue, rehabilitation, reintegration and repatriation of victims of trafficking.

The Ministry of Women and Child Development has also undertaken a study in collaboration with UNICEF on Rescue and Rehabilitation of Child Victims Trafficked for Commercial Sexual Exploitation. The Report of this study was released to the public in 2005. The Ministry of Women and Child Development, in 2005, also formulated a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking for Commercial Sexual Exploitation. This Protocol contains guidelines for State Governments and a strategy for Rescue Team Members for pre-rescue, rescue and post-rescue operations concerning children who are victims of trafficking and were sexually being exploited for commercial reasons. The Ministry of Women and Child Development in collaboration with UNICEF and various other organizations has developed three manuals – the “Manual for the Judicial Workers on Combating Trafficking of Women and Children for Commercial Sexual Exploitation”, “Manual for Medical Officers for Dealing with Child Victims of Trafficking and Commercial Sexual Exploitation”, and “Manual for Social Workers Dealing with Child Victims of Trafficking and Commercial Sexual Exploitation”. The Manual for Judicial Workers has been developed in collaboration with the National Human Rights Commission.

4. Role of National Human Rights Commission

In view of the existing trafficking scenario and at the request of the UN High Commissioner for Human Rights as well as on the recommendations of the Asia Pacific Forum of National Human Rights Institutions, the National Human Rights Commission nominated one of its Members to serve as a Focal Point on Human Rights of Women, including Trafficking in 2001. Among the activities initiated by the Focal

Point was an Action Research on Trafficking in Women and Children in India in the year 2002 in collaboration with UNIFEM and the Institute of Social Sciences, a research institute in New Delhi. The main focus of the Action Research was to find out the trends, dimensions, factors and responses related to trafficking in women and children in India. Besides, it looked into various other facets of trafficking, viz., the routes of trafficking, transit points, the role of law enforcement agencies, NGOs and other stakeholders in detecting and curbing trafficking. It also reviewed the existent laws at the national, regional and international level. The Action Research was completed in July 2004 and its Report was released to the public in August 2004. The recommendations and suggestions that emerged out of the Action Research were forwarded to all concerned in the Central Government, States/Union Territories for effective implementation. They were also requested to send an action taken report on the steps taken by them. In order that the recommendations and suggestions of the Action Research were implemented in true spirit, the Commission subsequently devised a comprehensive Plan of Action to Prevent and End Trafficking in Women and Children in India and disseminated the same to all concerned.

Before commencing the Action Research, an Information Kit on Preventing and Combating Trafficking in Women and Children was also published by the Focal Point. The main aim of the Information Kit was to inform the society about the various aspects of Trafficking – its forms, the estimates, the causes, the consequences, the modus operandi and the role of the Commission in preventing and combating trafficking. Prior to the establishment of the Focal Point, the Commission with the help of UNICEF and other organizations had carried out a campaign of Public Awareness on the problem of Child Prostitution and Sexual Abuse of Children in 1998.

Pained with the plight of children who were victims of trafficking, the Commission and the Prasar Bharati, with support from UNICEF,

collectively prepared a Guidebook for the Media on Sexual Violence Against Children. The main objective of the guidebook is to encourage media professionals to address the issue of sexual violence against children in a consistent, sensitive and effective manner, consonant with the rights and best interests of children. Further, to prevent cross-border trafficking, the National Human Rights Commission requested the Directors General of Police of Uttar Pradesh, Bihar and West Bengal to be vigilant about the issue. The National Human Rights Commissions of India and Nepal have prepared a Memorandum of Understanding (MoU) to prevent and check cross-border trafficking. However, the draft MoU is still pending with the Ministry of External Affairs, Government of India.

To spread awareness on prevention of sex tourism and trafficking, the Commission in collaboration with the UNIFEM and an NGO organized a oneday Sensitization Programme on Prevention of Sex Tourism and Trafficking in the year 2003. The main objective of the programme was to sensitize senior representatives of the hotel and tourism industry on various issues relating to sex tourism and trafficking. A National Workshop to Review the Implementation of Laws and Policies Related to Trafficking was also organized in 2004 in collaboration with PRAYAS, A Field Action Project of the Tata Institute of Social Sciences, Mumbai to work towards an effective rescue and post-rescue strategy.

5. Role of Ministry of Home Affairs

The Ministry of Home Affairs is also concerned with the problem of trafficking in human beings. It organized a two-day National Seminar on Trafficking in Human Beings in collaboration with the National Human Rights Commission and the United Nations Office on Drugs and Crime (UNODC) at the India Habitat Centre, New Delhi on 27 and 28 October 2005. The recommendations that emanated out of this Seminar have been sent to all concerned for compliance. In August/September 2006,

the Ministry of Home Affairs set up a Nodal Cell for Prevention of Trafficking. The main function of this Cell is to coordinate, network and provide feedback to the State Governments and other concerned agencies on a sustained and continuous basis so as to prevent and combat trafficking in human beings. This Cell has also been made responsible to document 'best practices' in preventing and combating trafficking in human beings as well as share data inputs with other stakeholders. In order to review the overall status of trafficking in the country, the Cell proposes to convene regular meetings every quarter with all stakeholders.

6. Role of National Commission for Women

The National Commission for Women is also dealing with the problem of trafficking in women and children. In late 90s, it undertook two studies entitled 'The Lost Childhood' and 'Velvet Blouse – Sexual Exploitation of Children'. In 2001, it undertook another study entitled 'Trafficking – A Socio-Legal Study'. Later in 2004, a study on 'Coastal Sex Tourism' was carried out by it. Along with these research studies, it has organized various seminars, training programmes and conferences on the subject of trafficking. Based on the above, it suggested amendments to ITPA in order to have a comprehensive law on trafficking.

The Ministry of Women and Child Development, the Ministry of Home Affairs and the National Human Rights Commission have requested all Chief Secretaries and Directors General of Police to sensitize the subordinate functionaries at the cutting edge on trafficking as well as other issues related to trafficking so that perpetrators of trafficking and its allied activities are severely dealt under the relevant provisions of law. The Ministry of Women and Child Development, the Ministry of Home Affairs, the National Human Rights Commission and the National Commission for Women on their own and in collaboration with the civil society are sensitizing the judicial officers, police officers, government officers and various other stakeholders on issues related to trafficking in human beings for various purposes.

II. Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women

The introductory chapter gives a broad overview about the initiatives and activities undertaken by various stakeholders to prevent and combat trafficking in human beings. Most of these initiatives and activities have come out with their own recommendations and Plans of Action. The result being that we all are working in isolation rather collectively on the same issue. In order that these recommendations/ Plans of Action are properly acted upon, the Ministry of Women and Child Development, Ministry of Home Affairs, National Human Rights Commission and National Commission for Women have decided to work in unison and draw up an **Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women**. This, we feel, would guide and facilitate uniform action on the part of all concerned so that trafficking is eliminated from its roots. The Integrated Plan of Action outlined below consists of action points grouped under:

- Ensuring Human Rights Perspective for the Victims of Trafficking
- Preventing Trafficking
- Emerging Areas of Concern in Trafficking – Their Patterns and Trends
- Identification of Traffickers and Trafficked Victims
- Special Measures for Identification and Protection of Trafficked Child Victims
- Rescue of Trafficked Victims Especially in Brothel-Based and Street- Based Prostitution with Special Focus on Child Victims
- Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims
- Cross-Border Trafficking: National and Regional Cooperation and Coordination

- Legal Framework and Law Enforcement
- Witness Protection and Support to Victims
- Training, Sensitization, Education and Awareness
- Methodology for Translating the Action Points into Action

The ultimate objective of the Integrated Plan of Action is to mainstream and reintegrate all victims of trafficking in society.

1. Ensuring Human Rights Perspective for the Victims of Trafficking
Violations of human rights are both a cause and a consequence of human trafficking. Accordingly, it is essential to place the protection of human rights at the center of any measures taken to prevent and end trafficking. Anti-trafficking measures in no way should adversely affect the human rights and dignity of persons who have been trafficked. The overall machinery deployed by the Central Government/State Governments/Union

Territories should consider:

1. Taking steps to ensure that measures adopted for the purpose of preventing and combating human trafficking do not have an adverse impact on the rights and dignity of trafficked persons.
2. Developing standard minimum guidelines for all officials and service providers with regard to pre-rescue, rescue and postrescue operations including rehabilitation, reintegration and repatriation of trafficked victims. These guidelines should be gender-responsive and should also provide further referral to other service providers in order to prevent revictimization. These could be prepared in the form of information kits/booklets/ hand books/do's and don'ts or be made part of the rules issued under the concerned law and should specify the accountability of the agencies concerned in providing services. This would enable all

officials and service providers — judicial officers, prosecutors, lawyers, law enforcement officials, medical and psycho-social professionals, functionaries manning homes/agencies of different kinds and others, to discharge their functions and duties effectively.

3. Taking particular care to ensure that the issue of gender-based discrimination is addressed systematically when anti-trafficking measures are proposed with a view to ensure that such measures are not applied in a discriminatory manner.
4. Ensuring that trafficked children, including girl children, are dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interest of the child should be of prime consideration in all actions concerning trafficked children. Steps to be initiated to ensure that children who are victim of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.

2. Preventing Trafficking

Preventing trafficking should take into account both demand and supply as a root cause. Central Government/State Governments/Union Territories should also take into account the factors that increase vulnerability to trafficking, including inequality, poverty and all forms of discrimination and prejudice. Effective prevention strategies should be based on existing experience and accurate information.

1. Analysing the factors that generate demand and supply for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues.

2. Empowering the vulnerable sections living in remote corners of country by extending to them various welfare, development and anti-poverty schemes of the Government of India, such as Swadhar, Swayamsidha, Swa-Shakti, Swawlamban, Balika Samridhi Yojana, Support to Training and Employment Programme for Women (STEP), Kishori Shakti Yojana, etc. This would provide scope for ample economic opportunities for the women and other traditionally disadvantaged groups in their native place itself so as to reduce their vulnerability to trafficking.
3. Improving children's access to schools and increasing the level of school attendance, especially of those affected or dependants, including the girl children, especially in remote and backward parts of the country. Efforts should also be made to incorporate sex-education and gender sensitive concerns in the school curriculum, both at the primary and secondary levels.
4. Generating awareness and spreading legal literacy on economic rights, particularly for women and adolescent girls should be taken up. Presently, there seems to be insufficient knowledge and information among the people to make informed decisions that affect their lives. This would not only enable them to know about their rights but also inform them about the risks of illegal migration (e.g. exploitation, debt bondage and health and security issues, including exposure to HIV/AIDS) as well as avenues available for legal, non-exploitative migration.
5. Developing information campaigns for the general public aimed at promoting awareness about the dangers associated with trafficking. Such campaigns should be informed by an understanding of the complexities surrounding trafficking and of the reasons as to why individuals may make potentially dangerous migration decisions.

6. Reviewing and modifying policies that may compel people to resort to irregular and vulnerable labour migration. This process should include examining the effect especially with regard to unskilled labour and women.
7. Examining ways of increasing opportunities for legal, gainful and non-exploitative labour migration. The promotion of labour migration on the whole should be dependent on the existence of regulatory and supervisory mechanisms to protect the rights of migrant workers.
8. Giving focused attention to the adolescents, who are both potential victims and clients. It would be useful if appropriate information and value clarification is given to them on issues related to 'sexuality' and 'reproductive health'. This exercise would be beneficial in view of the growing evidence of increased pre-marital sexual activity among adolescents and the looming threat of HIV/AIDS within this group.
9. Strengthening the capacity of law enforcement agencies to arrest and prosecute those involved in trafficking. This would include ensuring that law enforcement agencies comply with their legal obligations.
10. Devising necessary mechanisms for concerted coordination between the judiciary, police, government institutions and nongovernmental organizations/civil society groups with regard to prevention and combating strategies. This kind of a government-public network would involve and make the nongovernmental organizations/community responsible to act as watchdogs and informants on traffickers and exploiters.
11. Adopting measures to reduce vulnerability by ensuring that appropriate legal documentation for birth, citizenship and marriage is provided and made available to all persons.

12. Setting up of a national database/web portal under the aegis of National Crime Records Bureau. The main purpose of this kind of a mechanism is to create a help desk in providing information on missing persons including women and children, alert notice on suspected traffickers, anti-trafficking networks, do's and don'ts to be followed while dealing with victims of trafficking, etc.
13. . Addressing culturally sanctioned practices like the system of *devadasis*, *jogins*, *bhavins*, etc. which provide a pretext for trafficking of women and children for sexual exploitation.
14. Giving adequate publicity, through print and electronic media including 'childlines' and women 'helplines' across the country about the problem of trafficking and its ramifications.

3. Emerging Areas of Concern in Trafficking – Their Patterns and Trends

India is a country of vast dimensions. The formidable challenge is the enormity of the problem, both in number of trafficked persons and increasing number of locations. Of late, there is an expanding market for commercial sexual exploitation through non-brothel based modalities where the trafficked persons are made to pose as attendants, masseurs and as bartenders. Child pornography is another area that requires concerted attention. Sex tourism is also growing whereby India is emerging as a major tourist destination. Central/ State Governments, where appropriate, non-governmental organizations and the civil society at large should consider:

1. Evolving a comprehensive integrated approach for prevention and protection of trafficked victims, especially children of both sexes who are pushed into non-brothel based prostitution.

Simultaneously, there is also need to evolve a strategy to prosecute all those who indulge in exploitation of these kinds.

2. Strengthening/Amending existing laws on trafficking related to non-brothel based prostitution.
3. Spreading awareness about non-brothel based prostitution by organizing campaigns, training/sensitization programmes for staff and other functionaries in the hotel and tourism sector as well as children in schools, adolescents and youth groups.
4. Giving special attention to vulnerable areas like massage parlours, escort services, party hostesses, attendants, companions, etc. so as to prevent linkage between trafficking and non-brothel based prostitution.
5. Developing and distributing brochures and flyers in international/ domestic flights for addressing the international/domestic tourists on the legal repercussions of non-brothel based prostitution. Besides, in-flight videos/films could also be prepared for showing on national and international flights.
6. Developing and distributing different kinds of awareness material like posters, hoardings, etc. on trafficking linked to non-brothel based prostitution.

4. Identification of Traffickers and Trafficked Victims

Trafficking means much more than the organized movement of persons for profit. The critical additional factor that distinguishes trafficking from other kinds of clandestine movement of persons is the presence of force, coercion and/or deception throughout or at some stage

in the process – such deception, force or coercion being used for the purpose of exploitation. It is therefore very essential to keep a watch on all kinds of movements. Besides, the Central Governments, State Governments and Union Territory Administrations should not only identify and target the traffickers only but also those who are involved in controlling and exploiting trafficked victims. For example, those who are recruiters, transporters, those who transfer and/or maintain trafficked persons in exploitative situations, those involved in related crimes and those who profit either directly or indirectly from trafficking, its component acts and related offences.

1. Developing guidelines and procedures for relevant State authorities and officials such as police, border security personnel, immigration officials and others involved in the detection, detention, reception and processing of irregular migrants, to permit the rapid and accurate identification of traffickers and trafficked victims, including children.
2. Providing appropriate training to relevant State authorities and officials in the identification of traffickers and trafficked victims, including children and correct application of the guidelines and procedures referred to above.
3. Ensuring cooperation between relevant authorities, officials and non-governmental organizations to facilitate the identification of traffickers and trafficked victims and provision of assistance and support to trafficked victims. The organization and implementation of such cooperation should be formalized in order to maximize its effectiveness.
4. Identifying appropriate points of intervention to ensure that migrants and potential migrants are warned about possible dangers and consequences of trafficking and receive information that enables them to seek assistance if required.

5. Ensuring that all traffickers are arrested, prosecuted and punished with stringent penalties for their deeds. One way could be of confiscating their assets and proceeds of trafficking which could be used for the benefit of victims of trafficking. In no way, the trafficked victims should be prosecuted for the activities they are involved in as a result of their situation. It should be ensured that protection of trafficked victims as well as the confiscation of assets and proceeds of the trafficker for the benefit of trafficked victims are built into the anti-trafficking legislation itself. In fact, consideration should be given to the establishment of a Compensation Fund for victims of trafficking and the use of confiscated assets should finance such a fund. The protection offered to the victims in no way should be made conditional upon the willingness of the trafficked victim to cooperate in the legal proceedings.

5. Special Measures for Identification and Protection of Trafficked Child Victims

The physical, psychological and psychosocial harm suffered by trafficked children and their increased vulnerability to exploitation require that they be dealt with separately from adult trafficked persons in terms of laws, policies, programmes and interventions. The best interests of the child must be a primary consideration in all actions concerning trafficked children, whether undertaken by courts of law, government authorities, legislative bodies or non-governmental organizations. Children who are victims of trafficking should be provided with appropriate assistance and protection and full account should be taken of their special rights and needs. The Central Government/State Governments/Union Territory Administrations/inter-governmental and non-governmental organizations, should consider, in addition to the measures outlined under serial no. IV:

1. Ensuring that definitions of trafficking in children, in both law and policy, reflect their need for special safeguards and care, including appropriate legal protection. In particular, and in accordance with the 2000 Palermo Protocol, evidence of deception, force, coercion, etc. should not form part of the definition of trafficking where the person involved is a child. The mere presence of a child with a trafficker of any kind should connote that the child is trafficked or is being trafficked.
2. Ensuring that procedures are in place for the rapid identification of child victims of trafficking.
3. Ensuring that children who are victims of trafficking are not subjected to criminal procedures or sanctions for offences related to their situation as trafficked persons.
4. In cases where children are not accompanied by relatives or guardians, steps should be taken to identify and locate family members. Measures should also be taken in consultation with the child to facilitate the reunion of trafficked children with their families where this is deemed to be in their best interest.
5. In situations where the safe return of the child to his or her family is not possible, or where such return would not be in the child's best interests, establishing adequate care arrangements that respect the rights and dignity of the trafficked child.
6. In both the situations referred to at serial no. 4 and 5 above, ensuring that a child who is capable of forming his or her own views enjoys the right to express those views freely in all matters affective him or her, in particular, concerning decisions about his or her possible return to the family, the views of the child be given due weightage in accordance with his or her age and maturity.

7. Adopting specialized policies and programmes to protect and support children who have been victims of trafficking. Children should be provided with appropriate physical, psychosocial, legal, educational, housing and healthcare assistance.
8. Adopting measures necessary to protect the rights and interests of trafficked children at all stages of criminal proceedings against alleged offenders and during procedures for obtaining compensation.
9. Protecting, as appropriate, the privacy and identity of child victims and taking measures to avoid the dissemination of information that could lead to their identification.
10. Taking measures to ensure adequate and appropriate training, in particular, legal and psychological training, for persons working with child victims of trafficking.

6. Rescue of Trafficked Victims, Especially in Brothel-Based and Street-Based Prostitution with Special Focus on Child Victims

The process of trafficking cannot be broken without giving proper attention to the rights and needs of those who have been trafficked. Appropriate measures need to be specifically devised for trafficked victims, especially in brothel-based and street-based prostitution, including children who have been trapped in this without discrimination. The Central Government/State Governments/Union Territory Administrations/inter-governmental/non-governmental organizations should consider:

1. Taking effective measures for planning and devising a rescue strategy specifying victim-friendly provisions and structures for trafficked victims who have been forced into brothel-based and street-based prostitution.

2. Creating a specialized cell for rescuing them at the Centre/State/Block/District/Village level. This kind of paraphernalia would also facilitate in coordinating with other relevant departments and nongovernmental organizations (intra and inter) for rescuing trafficked victims caught in brothel-based and street-based prostitution including children who have been trapped.
3. Creating a confidential database on traffickers including probable traffickers, brothel owners, madams, *gharwalis*, etc. at all levels.
4. Cultivating a network of informants who will provide specific information about trafficked women victims including child victims below 18 years who want to be rescued from brothels.
5. Ensuring that rescue team should consist of both men and women police officers and representatives of non-governmental organizations/local inhabitants. Each member of the rescue team should be told about his/her role in the rescue operation and how the same is to be executed. They should also be told to maintain confidentiality and secrecy of the entire rescue operation.
6. Taking due care by all concerned to ensure that trafficked women, particularly children, are not unnecessarily harassed or intimidated during the course of rescue operations. Adoption of humane and rights-based approach would go a long way in building the faith of the victims in the criminal justice system. This would also facilitate the overall rehabilitation, reintegration of the victims.
7. Ensuring, in partnership with non-governmental organizations, that trafficked victims, including children, are provided access to legal, medical and counselling services. It should also be ensured that they are treated with dignity and not humiliated by the police, medical personnel or the court.

8. Ensuring that any victim, including a child, who is rescued, is examined by a Registered Medical Practitioner for the purpose of age and for the detection of injuries/diseases. Trafficked victims should not be subjected to mandatory testing for diseases, including HIV/AIDS.
9. Ensuring that, in cases where the victim rescued is not a child, she should not be *prima facie* treated as a criminal accused of soliciting clients. Steps should be taken to ensure that correct provisions of law are applied and that the FIR is not stereotyped.
10. All efforts should be made to ensure anonymity and privacy of the victims during and after rescue.

7. Rehabilitation, Reintegration and Repatriation of Trafficked Victims with Special Focus on Child Victims

The rehabilitation, reintegration and repatriation of victims of trafficking being a long process must be planned, taking into account the specific short and long-term needs of individual victims. Efforts must be nonpunitive and aimed at protecting the rights of the victims. All stakeholders should therefore consider:

1. Taking into account the specific short and long-term needs of each individual victim based on their age, education, skills, etc., the rehabilitation, reintegration and repatriation package for victims of trafficking should be worked out.
2. Keeping in view the paucity of government run institutions as well as the deteriorating conditions of these institutions, there is need to identify names of fit persons and fit institutions for providing safe custody to victims of trafficking. This list should be made available to the police, courts, non-governmental organizations and civil society at large for information.

3. Providing access to legal, medical and counselling services to all trafficked victims in order to restore their self-confidence and self-esteem. Special provision should be provided to those who have contracted HIV/AIDS.
4. Enabling victims of trafficking to access both formal and nonformal education structures. Formal education should be made available to those victims who are still within the school going age, while non-formal education should be made accessible to adults.
5. Providing gender sensitive market driven vocational training in partnership with non-governmental organizations to all rescued victims who are not interested in education. Government and non-governmental organizations should also work together to develop partnership with public and private sector employers in order to provide training/facilitate work placement as part of the reintegration process. Due care should be taken to give ample choice to victims so that rehabilitation and reintegration becomes a holistic process, which respects their human rights.
6. Involving the community in the rehabilitation, reintegration and repatriation process of trafficked victims. This means involving the families of victims and the community by enhancing their awareness about trafficking in general and the impact of trafficking on the individual.
7. Monitoring the rehabilitation, reintegration and repatriation of rescued victims with the help of non-governmental organizations.
8. Making available to rescued victims various developmental and anti-poverty schemes meant for the general population, both in the rehabilitation and reintegration phase.

9. Upgrading the conditions and capacities of institutions/homes run by the Government and an increase in the number of such institutions/homes not only in the cities, but also at the district and taluka levels, are of utmost necessity.
10. Recruiting adequate number of trained counsellors and social workers in institutions/homes run by the government independently or in collaboration with non-governmental organizations.
11. Appointing trained social workers and counsellors at police stations, courts and homes/institutions of different kinds meant for accommodating victims of trafficking.
12. Anti-trafficking cells/units should be set up at the Centre, State, Block District and Village levels to facilitate and monitor the process of rescue, rehabilitation, reintegration and repatriation.

8. Cross-Border Trafficking: National and Regional Cooperation and Coordination

Trafficking is a regional and global phenomenon. Enormous trafficking takes place not only within the country but also across borders, especially between the neighbouring countries. A coherent approach is therefore required to tackle the problem of cross-border trafficking which cannot be dealt with at the national level alone. A strengthened national response can often result in the operations of traffickers moving elsewhere. International, multilateral and bilateral cooperation can play an important role in preventing and combating trafficking activities. States should thus consider:

1. Adopting bilateral agreements with neighbouring countries in order to prevent trafficking and protecting the rights and dignity of trafficked persons and promoting their welfare.
2. Using the Palermo Protocol and relevant international human rights standards as a baseline and framework for elaborating bilateral agreements mentioned at serial no. 1 above.
3. Adopting labour migration agreements, which may include provision for work standards, model contracts, modes of repatriation, etc. in accordance with existing international standards.
4. Developing cooperation arrangements to facilitate the rapid identification of trafficked victims including the sharing and exchange of information in relation to their nationality and right of residence.
5. Establishing mechanisms to facilitate the exchange of information concerning traffickers and their methods of operation.
6. Developing procedures and protocols for the conduct of proactive joint investigations by law enforcement authorities of different concerned countries.
7. Ensuring judicial cooperation between countries in investigations and judicial processes relating to trafficking and related offences. This cooperation should include assistance in: identifying and interviewing witnesses with due regard for their safety; identifying, obtaining and preserving evidence; producing and serving the legal documents necessary to secure evidence and witnesses; and the enforcement of judgments.

8. Ensuring that requests for extradition for offences related to trafficking are dealt with by the authorities of the requested countries without undue delay.
9. Establishing cooperative mechanisms for the confiscation of the proceeds of trafficking. This cooperation should include the provision of assistance in identifying, tracing, freezing and confiscating assets connected to trafficking and related exploitation.
10. Encouraging and facilitating cooperation between nongovernmental organizations and other civil society organizations in countries of origin, transit and destination. This is particularly important to ensure support and assistance to trafficked victims who are repatriated.

9. Legal Framework and Law Enforcement

The lack of specific and/or adequate legislation on trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking. There is an urgent need to harmonize legal definitions, procedures and cooperation at the national and regional levels in accordance with international standards. The development of an appropriate legal framework that is consistent with relevant international instruments and standards will also play an important role in the prevention of trafficking and related exploitation. Moreover, a strong legal framework would also ensure an effective law enforcement response. As of now, individuals are reluctant or unable to report traffickers or to serve as witnesses because they lack confidence in the police and the judicial system and/or because of the absence of any effective protection mechanisms. These problems are compounded when law enforcement officials are involved or complicit in trafficking. Strong measures therefore need to be taken to ensure that such involvement is investigated,

prosecuted and punished. Law enforcement officials must also be sensitized to the paramount requirement of ensuring the safety of trafficked victims. The Government of India having ratified the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the two Optional Protocols to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts; and on the Sale of Children, Child Prostitution and Child Pornography and having signed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, 2000, should consider:

1. Amending or adopting national legislation in accordance with international standards in order to address all forms of trafficking and these should also be criminalized. Along with this, the content of domestic trafficking legislation should also strictly criminalize traffickers, including agents or middlemen, brothel owners and managers, as well as institutional networks that are used in the crime of trafficking.
2. Enacting legislation to provide for the administrative, civil and, where appropriate, criminal liability of legal persons for trafficking offences in addition to the liability of natural persons. The Government should also review current laws, administrative controls and conditions relating to the licensing and operation of businesses that may serve as cover for trafficking such as marriage bureaux, employment agencies, travel agencies, hotels and escort services.
3. Making legislative provision for effective and proportional criminal penalties (including custodial penalties giving rise to extradition in the case of individuals). Where appropriate, legislation should provide for additional penalties to be applied to

persons found guilty of trafficking in aggravating circumstances, including offences involving trafficking in children or offences committed or involving complicity by State officials.

4. Making legislative provision for confiscation of the instruments and proceeds of trafficking and related offences. Where possible, the legislation should specify that the confiscated proceeds of trafficking would be used for the benefit of victims of trafficking. Consideration should be given to the establishment of a Compensation Fund for victims of trafficking and the use of confiscated assets should finance such a fund.
5. Ensuring that legislation prevents trafficked persons from being prosecuted, detained or punished for they are victims of situation beyond their control. Likewise, it should be ensured that protection of trafficked victims is built into the anti-trafficking legislation itself. The protection offered in no way should be made conditional upon the willingness of the trafficked victim to cooperate in the legal proceedings.
6. Providing legislative protection for trafficked victims who voluntarily agree to cooperate with law enforcement authorities.
7. Legal reform should also incorporate a gender and rights-based perspective, having regard to the fact that women are, in most cases, marginalized. For example, property and inheritance laws and procedures should be reviewed and adjusted to ensure that they do not include provisions which have a discriminatory impact on women and their livelihood options.
8. Making effective provision for trafficked victims whereby they are given legal information and assistance in a language they understand as well as appropriate other supportive measures.

The Government should ensure that entitlement to such information, assistance and support is not discretionary but is available as a right for all persons who have been identified as trafficked.

9. Ensuring that the right of trafficking victims to pursue civil claims against alleged traffickers is enshrined in law.
10. The services of nodal officers – one representing the police department dealing with investigation, detection, prosecution and prevention of trafficking and the other representing the welfare agencies dealing with rescue, rehabilitation and economic/social empowerment of the victims and those at risk – appointed by the State Governments/Union Territories at the behest of NHRC should be utilized for all purposes.
11. Ensuring that law enforcement personnel of all ranks are provided with adequate training in the investigation and prosecution of cases of trafficking.
12. Establishing specialist Anti-Trafficking Units (comprising both women and men) in order to promote competence and professionalism. Besides, law enforcement authorities should be provided with adequate investigative powers and techniques to enable effective investigation and prosecution of suspected traffickers.
13. Guaranteeing that traffickers are and will remain the focus of antitrafficking strategies and that law enforcement efforts do not place trafficked victims at risk of being punished for offences committed as a consequence of their situation.
14. Encouraging law enforcement authorities to work in partnership with non-governmental organizations and the community at large

in order to ensure that trafficked victims receive necessary support and assistance. For very little can be achieved without the involvement of the community in fighting trafficking.

10. Witness Protection and Support to Victims

As mentioned at serial no. IX above, an adequate law enforcement response to trafficking is dependent on the cooperation and support of trafficked victims and other witnesses. In many cases, individuals are reluctant or unable to report traffickers or to serve as witnesses because of the fear that they would not only be harassed but also ill-treated. In order that the trafficked victims and other witnesses shed their fears, the Government should consider:

1. Guaranteeing protection for witnesses and support to victims in law.
2. Making appropriate efforts to protect individual trafficked victims and other witnesses (including their families) during the investigation and trial process and any subsequent period when their safety so requires. Appropriate protection programmes may include some or all of the following elements: access to independent legal counsel; protection of identity during legal proceedings; in-camera trials.

11. Training, Sensitization, Education and Awareness

Training, sensitization, education and awareness on the issue of trafficking, particularly its adverse impact on human beings, is an important element of prevention as well as eradicating trafficking. This being so, all round efforts should be made to train, sensitize, educate and raise awareness among all at all levels. In doing so, focus should be on:

1. Deepening knowledge and understanding through sensitization and training programmes for judicial officers, law enforcement personnel (police, immigration, border control, customs officials, medical professionals/ personnel and labour inspectors) and other concerned government officials on the issue of 'trafficking' as well as 'gender and human rights'. These training and sensitization programmes could be organized in conjunction with the Ministries of Home Affairs, Women and Child Development, Labour, the National Human Rights Commission and the National Commission for Women.
2. Ensuring uniformity and quality in these sensitization and training programmes by developing specialized modules for each category of officials taking into consideration their different roles and responsibilities.
3. The module on anti-trafficking should form a core component of the curriculum of National Police Academy, Hyderabad; Lal Bahadur Shastri National Academy of Administration, Mussoorie and all police training institutes. This would enable all probationers to know about the problem of trafficking and its ramifications.
4. Building up and strengthening the capacity of non-governmental organizations that are currently involved in rescue, rehabilitation, reintegration and repatriation work.
5. Till such time, a new law to deal with the problems of trafficking is framed or amendments are made in the existing law, the police officers, prosecutors and lawyers should be sensitized to invoke provisions of the Immoral Traffic (Prevention) Act, 1956 in conjunction with the Indian Penal Code, the Juvenile Justice (Care and Protection of Children) Act, 2000 and other laws.

6. Developing training material consisting of good practice models, applicable treaties and laws, important judgments, rescue procedure, case studies on rehabilitation of victims, etc. to ensure that the knowledge, information imparted in various training/ sensitization programmes is of uniform nature.
7. Maintaining records regarding the officials/personnel who have been trained and the type of training received, so that later refresher courses could be organized for them to update them on latest information and techniques.
8. Organizing mass scale information campaigns on the issue of trafficking for the general public at large. The tourism industry including airlines, hotels, travel agencies, beer bars, holiday resorts, etc. should also be sensitized to the problem of trafficking.
9. Educating school and college level students on the issue of trafficking as well as human rights and gender sensitive concerns.
10. The media should play an important role in informing and educating the public through newspaper, radio and other modes of communication, and should be targeted as a key partner in preventing and ending trafficking. It would be ideal if media practitioners were first sensitized about the issue of trafficking and its complexities, as this would ensure appropriate reporting on facts rather than sensationalizing the issue.

12. Methodology for Translating the Action Points into Action

Suggestions to be given by the Participants.

INSTRUCTIONS TO CONTRIBUTORS

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